



# भारत का राजपत्र The Gazette of India

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प्राधिकार से प्रकाशित  
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सं. 23]

नई दिल्ली, जून 9—जून 15, 2024, शनिवार/ज्येष्ठ 19—ज्येष्ठ 25, 1946

No. 23]

NEW DELHI, JUNE 9—JUNE 15, 2024, SATURDAY/JYAISHTHA 19—JYAISHTHA 25, 1946

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

विदेश मन्त्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 10 जून, 2024

का.आ. 1084.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, सरकार भारतीय कौंसलावास, बंदर अब्बास, में श्री अनिल कुमार, सहायक अनुभाग अधिकारी को जून 10, 2024 से सहायक कांसुलर अधिकारी के रूप में कांसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी. 4330/1/2024(19)]

एस.आर.एच. फहमी, निदेशक (सीपीवी-I)

**MINISTRY OF EXTERNAL AFFAIRS**  
**(CPV Division)**

New Delhi, the 10th June, 2024

**S.O. 1084.**—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Anil Kumar, Assistant Section Officer as Assistant Consular Officer in the Consulate of India, Bandar Abbas, to perform the consular services as Assistant Consular Officer with effect from June 10, 2024.

[F. No. T. 4330/01/2024(19)]

S.R.H. FAHMI, Director (CPV-I)

**पेट्रोलियम और प्राकृतिक गैस मंत्रालय**

नई दिल्ली, 3 जून, 2024

**का.आ. 1085.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में पेट्रोलियम और प्राकृतिक गैस मंत्रालय के प्रशासनिक नियंत्रणाधीन सार्वजनिक क्षेत्र के उपक्रम के निम्नलिखित कार्यालयों को, जिसके 80 या अधिक प्रतिशत कर्मचारी वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

1. गेल गैस लिमिटेड, पदमदीप टावर,  
जी-10/8, तीसरी मंजिल,  
संजय प्लेस, आगरा – 282002
2. हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड,  
सिलिगुड़ी रिटेल क्षेत्रीय कार्यालय, द्वितीय मंजिल,  
होमलैंड बिल्डिंग, 3 माइल, सेवक रोड,  
सिलिगुड़ी – 734008

[फा. सं. 11012/3/2021-रा.भा.(2024)]

शोभना श्रीवास्तव, उप निदेशक (राजभाषा)

**MINISTRY OF PETROLEUM AND NATURAL GAS**

New Delhi, the 3rd June, 2024

**S.O. 1085.**—In pursuance of Sub Rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976, the central Government hereby notifies the following offices of the Public Sector undertaking under the administrative control of the Ministry of Petroleum & Natural Gas, in which 80 or more percent of the staff have acquired working Knowledge of Hindi:-

1. GAIL Gas Limited, Padamdeep Tower,  
G-10/8, 3rd Floor,  
Sanjay Place, Agra – 282002
2. Hindustan Petroleum Corporation Limited,  
Siliguri Retail Regional Office, 2nd Floor,  
Homeland Building, 3 Mile, Sewak Road,  
Siliguri – 734008

[F. No. 11012/3/2021-OL (2024)]

SHOBHANA SRIVASTAVA, Dy. Director (OL)

नई दिल्ली, 12 जून, 2024

**का.आ. 1086.**—तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उप-धारा 3 (ए) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार श्री प्रवीण मल खनूजा, अपर सचिव, पेट्रोलियम और प्राकृतिक गैस मंत्रालय को दिनांक 07.06.2024 से 06.06.2026 तक तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो, के लिए तेल उद्योग विकास बोर्ड के सदस्य के रूप में एतद्वारा नियुक्त करती है।

[फा. सं. जी-38011/41/2016-एफ.आई/ओएनजी.।]

अमित बंसल, उप सचिव

New Delhi, the 12th June, 2024

**S.O. 1086.** In exercise of the Powers conferred by Sub-Section (3)(a) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints Sh. Praveen Mal Khanooja, Additional Secretary, Ministry of Petroleum and Natural Gas as Member of the Oil Industry Development Board w.e.f. 07.06.2024 to 06.06.2026 or until further orders, whichever is earlier.

[F. No. G-38011/41/2016-F-I/ONG.I]

AMIT BANSAL, Dy. Secy.

**वाणिज्य और उद्योग मंत्रालय  
(उद्योग संवर्धन और आंतरिक व्यापार विभाग)**

नई दिल्ली, 31 मई, 2024

**का.आ. 1087.**—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप-नियम (4) के अनुसरण में उद्योग संवर्धन और आंतरिक व्यापार विभाग के नियंत्रणाधीन राष्ट्रीय उत्पादकता परिषद् के निम्नलिखित कार्यालयों, जिनके 80% से अधिक कार्मिकों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:

1. राष्ट्रीय उत्पादकता परिषद्, क्षेत्रीय निदेशालय  
एस.बी - 96, जवाहर लाल नेहरू मार्ग, बापू नगर, जयपुर - 302 015
2. राष्ट्रीय उत्पादकता परिषद्, क्षेत्रीय निदेशालय  
तृतीय तल, सुदामा भवन, बोरिंग रोड चौराहा, पटना-800 001
3. राष्ट्रीय उत्पादकता परिषद्, क्षेत्रीय निदेशालय  
चतुर्थ तल, कबीर भवन, उद्योग निदेशालय परिसर, जी.टी. रोड, कानपुर - 208 005
4. राष्ट्रीय उत्पादकता परिषद्, क्षेत्रीय निदेशालय  
9, सैयद आमिर अली एवन्यु, पार्क सर्कस, कोलकाता, पश्चिम बंगाल - 700 017

[फा. सं. ई-11017/3/2022-हिंदी]

राजीव सिंह ठाकुर, अपर सचिव

**MINISTRY OF COMMERCE AND INDUSTRY  
(Department for Promotion of Industry and Internal Trade)**

New Delhi, the 31st May, 2024

**S.O. 1087.**—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules 1976, the Central Government hereby notifies the following offices of National Productivity Council under control of Department for Promotion of Industry & Internal Trade whose more than 80% staff have acquired working knowledge of Hindi:

1. National Productivity Council, Regional Directorate  
SB-96, Jawahar Lal Nehru Marg, Bapu Nagar, Jaipur -302 015
2. National Productivity Council, Regional Directorate  
3<sup>rd</sup> Floor, Sudama Bhawan, Boring Road Crossing, Patna - 800 001
3. National Productivity Council, Regional Directorate  
Fourth Floor, Kabir Bhawan, Directorate of Industries Campus, G.T. Road, Kanpur -208 005
4. National Productivity Council, Regional Directorate  
9, Syed Amir Ali Avenue, Park Circus, Kolkata, West Bengal - 700 017

[F. No. E-11017/3/2022-Hindi]

RAJEEV SINGH THAKUR, Addl. Secy.

**भारी उद्योग मंत्रालय****(हिंदी अनुभाग)**

नई दिल्ली, 5 जून, 2024

**का.आ. 1088.**—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथासंशोधित 1987, 2007 और 2011) के नियम 10 के उप-नियम (4) के अनुसरण में, भारी उद्योग मंत्रालय के प्रशासनिक नियंत्रणाधीन 'बीएचईएल-कार्पोरेट, आर एंड डी, हैदराबाद' इकाई को, जिसके 80% से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित किया जाता है।

[फा. सं. ई-11012/2/2018-हिंदी]

विजय मित्तल, संयुक्त सचिव

**MINISTRY OF HEAVY INDUSTRIES****(Hindi Section)**

New Delhi, the 5th June, 2024

**S.O. 1088**—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended in 1987, 2007 and 2011), the Central Government hereby notifies the **BHEL-Corporate, R & D, Hyderabad** unit, an office under the administrative control of the Ministry of Heavy Industries wherein more than 80% staff have acquired the working knowledge of Hindi.

[F. No. E-11012/2/2018-Hindi]

VIJAY MITTAL, Jt. Secy.

**श्रम और रोजगार मंत्रालय**

नई दिल्ली, 22 सितम्बर, 2023

**का.आ. 1089.**—राष्ट्रपति, श्री कमल कांत को दिनांक 18 सितम्बर, 2023 के पूर्वाह्न से 17 सितम्बर, 2027 तक 4 वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, तक के लिए केंद्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय न. 2, चंडीगढ़ में पीठासीन अधिकारी के पद पर नियुक्त करते हैं।

2. श्री कमल कांत की पीठासीन अधिकारी, केंद्रीय सरकार औद्योगिक अधिकरण सह-श्रम न्यायालय के पद पर नियुक्ति अधिकरण सुधार अधिनियम, 2021 और उसके तहत बने नियम यानि अधिकरण (सेवा की शर्तें) नियम, 2021 के अनुसार विनियमित की जाएगी।

[सं. अ-19011/11/2022-सीएलएस-II (ई)]

धनञ्जय शर्मा, अवर सचिव

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 22nd September, 2023

**S.O. 1089.**—The President is pleased to appoint Sh. Kamal Kant as Presiding Officer of Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh for a period of 4 years with effect from the forenoon of the 19<sup>th</sup> September, 2023 up to 18<sup>th</sup> September, 2027 or until further orders, whichever is earlier.

2. The appointment of Sh. Kamal Kant as Presiding Officer, CGIT-cum-LC shall be regulated in terms of the Tribunal Reforms Act, 2021 and the rules made thereunder, i.e. Tribunals (Conditions of Service) Rules, 2021.

[No. A-19011/11/2022-CLS-II (E)]

DHANANJAY SHARMA, Under Secy.

नई दिल्ली, 22 सितम्बर, 2023

**का.आ. 1090.**—राष्ट्रपति, श्री अतुल कुमार गर्ग को दिनांक 15 सितम्बर, 2023 के पूर्वाह्न से 14 सितम्बर, 2027 तक 4 वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, तक के लिए केंद्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय न. 2, दिल्ली में पीठासीन अधिकारी के पद पर नियुक्त करते हैं।

2. श्री अतुल कुमार गर्ग की पीठासीन अधिकारी, केंद्रीय सरकार औद्योगिक अधिकरण सह-श्रम न्यायालय के पद पर नियुक्ति अधिकरण सुधार अधिनियम, 2021 और उसके तहत बने नियम यानि अधिकरण (सेवा की शर्तें) नियम, 2021 के अनुसार विनियमित की जाएगी।

[सं. अ-19011/01/2023-सीएलएस-II (ई)]

धनञ्जय शर्मा, अवर सचिव

New Delhi, the 22nd September, 2023

**S.O. 1090.**—The President is pleased to appoint Sh. Atul Kumar Garg as Presiding Officer of Central Government Industrial Tribunal-cum-Labour Court No. 2, Delhi for a period of 4 years with effect from the forenoon of the 15<sup>th</sup> September, 2023 up to 14<sup>th</sup> September, 2027 or until further orders, whichever is earlier.

2. The appointment of Sh. Atul Kumar Garg as Presiding Officer, CGIT-cum-LC shall be regulated in terms of the Tribunal Reforms Act, 2021 and the rules made thereunder, i.e. Tribunals (Conditions of Service) Rules, 2021.

[No. A-19011/01/2023-CLS-II (E)]

DHANANJAY SHARMA, Under Secy.

नई दिल्ली, 25 सितम्बर, 2023

**का.आ. 1091.**—राष्ट्रपति, श्री पुर्णेन्दु कुमार श्रीवास्तव को दिनांक 22 सितम्बर, 2023 के पूर्वाह्न से 21 सितम्बर, 2027 तक 4 वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, तक के लिए केंद्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, जबलपुर में पीठासीन अधिकारी के पद पर नियुक्त करते हैं।

2. श्री पुर्णेन्दु कुमार श्रीवास्तव की पीठासीन अधिकारी, केंद्रीय सरकार औद्योगिक अधिकरण सह-श्रम न्यायालय के पद पर नियुक्ति अधिकरण सुधार अधिनियम, 2021 और उसके तहत बने नियम यानि अधिकरण (सेवा की शर्तें) नियम, 2021 के अनुसार विनियमित की जाएगी।

[सं. अ-19011/02/2023-सीएलएस-II (ई)]

एस आर दत्ता, उप सचिव

New Delhi, the 25th September, 2023

**S.O. 1091.**—The President is pleased to appoint Sh. Purnendu Kumar Srivastava as Presiding Officer of Central Government Industrial Tribunal-cum-Labour Court, Jabalpur for a period of 4 years with effect from the forenoon of the 22<sup>nd</sup> September, 2023 up to 21<sup>st</sup> September, 2027 or until further orders, whichever is earlier.

2. The appointment of Sh. Purnendu Kumar Srivastava as Presiding Officer, CGIT-cum-LC shall be regulated in terms of the Tribunal Reforms Act, 2021 and the rules made thereunder, i.e. Tribunals (Conditions of Service) Rules, 2021.

[No. A-19011/02/2023-CLS-II(E)]

S. R. DATTA, Dy. Secy.

नई दिल्ली, 29 सितम्बर, 2023

**का.आ. 1092.**—राष्ट्रपति, श्री राधा मोहन चतुर्वेदी को दिनांक 25 सितम्बर, 2023 के पूर्वाह्न से 70 वर्ष की आयु प्राप्त करने की तारीख, यानी 04 सितम्बर, 2027 तक की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, तक के लिए केंद्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, जयपुर में पीठासीन अधिकारी के पद पर नियुक्त करते हैं।

2. श्री राधा मोहन चतुर्वेदी की पीठासीन अधिकारी, केंद्रीय सरकार औद्योगिक अधिकरण सह-श्रम न्यायालय के पद पर नियुक्ति अधिकरण सुधार अधिनियम, 2021 और उसके तहत बने नियम यानि अधिकरण (सेवा की शर्तें) नियम, 2021 के अनुसार विनियमित की जाएगी।

[सं. अ-19011/03/2023-सीएलएस-II(ई)]

एस आर दत्ता, उप सचिव

New Delhi, the 29th September, 2023

**S.O. 1092.**—The President is pleased to appoint Sh. Radha Mohan Chaturvedi as Presiding Officer of Central Government Industrial Tribunal-cum-Labour Court, Jaipur with effect from the forenoon of the 25<sup>th</sup> September, 2023 up to date of attaining 70 years of age, i.e. 04<sup>th</sup> September, 2027 or until further orders, whichever is earlier.

2. The appointment of Sh. Radha Mohan Chaturvedi as Presiding Officer, CGIT-cum-LC shall be regulated in terms of the Tribunal Reforms Act, 2021 and the rules made thereunder, i.e. Tribunals (Conditions of Service) Rules, 2021.

[No. A-19011/03/2023-CLS-II(E)]

S. R. DATTA, Dy. Secy.

नई दिल्ली, 9 मई, 2024

**का.आ. 1093.**—राष्ट्रपति, श्री श्रीकांत केशवराव देशपांडे को दिनांक 03 मई, 2024 के पूर्वाह्न से 15 फरवरी, 2028 तक के लिए अथवा अगले आदेशों तक, जो भी पहले हो, तक के लिए केंद्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय न. 2, मुंबई में पीठासीन अधिकारी के पद पर नियुक्त करते हैं।

2. श्री श्रीकांत केशवराव देशपांडे की पीठासीन अधिकारी, केंद्रीय सरकार औद्योगिक अधिकरण सह-श्रम न्यायालय के पद पर नियुक्ति अधिकरण सुधार अधिनियम, 2021 और उसके तहत बने नियम यानि अधिकरण (सेवा की शर्तें) नियम, 2021 के अनुसार विनियमित की जाएगी।

[सं. अ-19011/01/2024-सीएलएस-II(ई)]

धनञ्जय शर्मा, अवर सचिव

New Delhi, the 9th May, 2024

**S.O. 1093.**—The President is pleased to appoint Sh. Shrikant Kesharao Deshpande as Presiding Officer of Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai with effect from the forenoon of the 03<sup>rd</sup> May, 2024 up to 15<sup>th</sup> February, 2028 or until further orders, whichever is earlier.

2. The appointment of Sh. Shrikant Kesharao Deshpande as Presiding Officer, CGIT-cum-LC shall be regulated in terms of the Tribunal Reforms Act, 2021 and the rules made thereunder, i.e. Tribunals (Conditions of Service) Rules, 2021.

[No. A-19011/01/2024-CLS-II(E)]

DHANANJAY SHARMA, Under Secy.

नई दिल्ली, 5 जून, 2024

**का.आ. 1094.**— औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (04/2021) प्रकाशित करती है।

[सं. एल-41011/04/2021- आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 5th June, 2024

**S.O. 1094.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.04/2021) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/04/2021- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**  
**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,**  
**AHMEDABAD**

Present....

Radha Mohan Chaturvedi,  
 Presiding Officer (I/c),  
 CGIT-cum-Labour Court,  
 Ahmedabad

Dated 15<sup>th</sup> May, 2024

**Reference (CGITA) No. - 04 / 2021**

1. The Divisional Railway Manager,  
 Western Railway, Asarwa,  
 Ahmedabad (Gujarat) – 380016
2. The Sr. Divisional Mechanical Engineer,  
 Western Railway, Diesel Shed,  
 Vatva, Ahmedabad (Gujarat)- 382440

.....First Parties

V/s

The General Secretary,  
 Akhil Bharatiya Karmachari Mahasangh,  
 28-B, Narayan Park, B/H Chandkheda Railway Station,  
 Sabarmati, Ahmedabad (Gujarat) - 382470

.....Second Party

For the First Party : None

For the Second Party : None

**AWARD**

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/04/2021-IR (B-I) dated 15.02.2021 for adjudication to this Tribunal.

**SCHEDULE**

“Whether the demand of Akhil Bharatiya Karmachari Mahasangh for Promotion, Seniority and MACP benefits of Shri Symon R., Elect. Fitter, Gr.III is fair, legal & justified? If so, what relief the workman is entitled to?”

1. The reference was received in this Tribunal on 25<sup>th</sup> February, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 5 जून, 2024

**का.आ. 1095.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **पश्चिमी रेलवे** के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (06/2021) प्रकाशित करती है।

[सं. एल-41011/16/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 5th June, 2024

**S.O. 1095.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.06/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/16/2021- IR(B-I)]

SALONI, Dy. Director

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....  
Radha Mohan Chaturvedi,  
Presiding Officer (I/c),  
CGIT-cum-Labour Court,  
Ahmedabad

Dated 15<sup>th</sup> May, 2024

**Reference (CGITA) No. - 06 / 2021**

The Sr. Divisional Electrical Engineer,  
Western Railway, Asarwa,  
Ahmedabad (Gujarat) – 380016

.....First Party

V/s

The Zonal Secretary,  
Bhartiya Rail Mazdoor Federation,  
28-B, Narayan Park, B/H Chandkheda Railway Station,  
Sabarmati, Ahmedabad (Gujarat) - 382470

Second Party

For the First Party : None  
For the Second Party : None

### AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/16/2021-IR (B-I) dated 05.04.2021 for adjudication to this Tribunal.

### SCHEDULE

“Whether the demand of the Union viz., Bhartiya Rail Mazdoor Federation, Ahmedabad for non-payment of travelling allowances for the months of April-2016, July-2016 and December-2016 and overtime allowance for the period from 14.01.2016 to 24.12.2016 to Shri Nilesh S. Khalasi is legal, just and proper? If not, as to what relief, Shri Nilesh S. Khalasi is entitled to?”

1. The reference was received in this Tribunal on 15<sup>th</sup> April, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.



2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 5 जून, 2024

**का.आ. 1096.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (09/2021) प्रकाशित करती है।

[सं. एल-41011/23/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 5th June, 2024

**S.O. 1096.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.09/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/23/2021- IR(B-I)]

SALONI, Dy. Director

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....  
Radha Mohan Chaturvedi,  
Presiding Officer (I/c),  
CGIT-cum-Labour Court,  
Ahmedabad

Dated 15<sup>th</sup> May, 2024

#### Reference (CGITA) No. - 09 / 2021

1. The General Manager,  
Western Railway, Chuchgate,  
Mumbai- 400020
2. The Divisional Railway Manager,  
Western Railway, Asarwa,  
Ahmedabad(Gujarat)- 380016

.....First Parties  
V/s

The General Secretary,  
Akhikl Bharatiya Karmachari Mahasangh,  
28-B, Narayan Park, B/H Chandkheda Railway Station,  
Sabarmati, Ahmedabad (Gujarat) - 382470  
For the First Party : None  
For the Second Party : None

.....Second Party

### AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below

mentioned dispute vide reference adjudication Order No. L-41011/23/2021-IR (B-I) dated 15.04.2021 for adjudication to this Tribunal.

### SCHEDULE

“Whether the demand of Akhil Bharatiya Karmachari Mahasangh for correct pay fixation in respect of Shri Priyakant Anjani Kumar & 22 others Assistant LOCO Pilots selected vide order No EM/890/1/2(Running) 25/GDCE dated 07.07.2016, is fair, legal & justified? If so, as to what relief the workmen are entitled to?”

1. The reference was received in this Tribunal on 26<sup>th</sup> April, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 5 जून, 2024

**का.आ. 1097.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (11/2021) प्रकाशित करती है।

[सं. एल-41011/26/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 5th June, 2024

**S.O. 1097.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.11/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/26/2021- IR(B-I)]

SALONI, Dy. Director

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....  
Radha Mohan Chaturvedi,  
Presiding Officer (I/c),  
CGIT-cum-Labour Court,  
Ahmedabad

Dated 15<sup>th</sup> May, 2024

Reference (CGITA) No. - 11 / 2021

The Divisional Railway Manager,  
Western Railway, Asarwa,  
Ahmedabad(Gujarat)- 380016

.....First Party

V/s

The Zonal Secretary,  
Indian Railway Labour Federation,  
28-B, Narayan Park, B/H Chandkheda Railway Station,  
Sabarmati, Ahmedabad (Gujarat) - 382470

....Second Party

For the First Party : None  
For the Second Party : None

### AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/26/2021-IR (B-I) dated 19.04.2021 for adjudication to this Tribunal.

### SCHEDULE

“Whether the demand of the Indian Railway Labour Federation for pay fixation in respect of Shri Bhailal D Solanki, Elect. Fitter Gr.-I, at par with his juniors Shri Jayesh R. Bhat and others w.e.f July 2008 and payment of arrears thereof, is fair, legal & justified? If so what relief the workman is entitled to?”

1. The reference was received in this Tribunal on 26<sup>th</sup> April, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 5 जून, 2024

**का.आ. 1098.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (07/2021) प्रकाशित करती है।

[सं. एल-41011/19/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 5th June, 2024

**S.O. 1098.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.07/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/19/2021- IR(B-I)]

SALONI, Dy. Director

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....  
Radha Mohan Chaturvedi,  
Presiding Officer (I/c),  
CGIT-cum-Labour Court,  
Ahmedabad

Dated 15<sup>th</sup> May, 2024

**Reference (CGITA) No. - 07 / 2021**

1. The Chief Medical Director,  
Western Railway, Churchgate,  
Mumbai- 400020
  2. The Chief Medical Supdt,  
Western Railway, New Railway Colony,  
Sabarmati, Ahmedabad(Gujarat)- 380005
- .....First Parties  
V/s
- The Divisional Secretary,  
Paschim Railway Karmachari Parishad,  
12, Devganga Bungalows, Near Jantanagar,  
Chandkheda, Ahmedabad (Gujarat) - 382424
- .....Second Party
- For the First Party : None  
For the Second Party : None

**AWARD**

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/19/2021-IR (B-I) dated 15.04.2021 for adjudication to this Tribunal.

**SCHEDULE**

- “Whether the demand of the Union viz., Paschim Railway Karmachari Parishad, Ahmedabad for not providing proper medical treatment and facilities to their employees by the management of Chief Medical Director, Western Railway, Mumbai and Chief Medical Supdt, Western Railway, Sabarmati, Ahmedabad is legal, just and proper? If so, as to what relief, the Union is entitled to?”
1. The reference was received in this Tribunal on 26<sup>th</sup> April, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
  2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
  3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
  4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
  5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 5 जून, 2024

**का.आ. 1099.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (08/2021) प्रकाशित करती है।

[सं. एल-41011/21/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 5th June, 2024

**S.O. 1099.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.08/2021) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/21/2021- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**  
**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,**  
**AHMEDABAD**

Present....  
 Radha Mohan Chaturvedi,  
 Presiding Officer (I/c),  
 CGIT-cum-Labour Court,  
 Ahmedabad

Dated 15<sup>th</sup> May, 2024

**Reference (CGITA) No. - 08 / 2021**

The Assistant Finance and Chief Account Officer,  
 Western Railway, Chuchgate,  
 Mumbai- 400020

.....First Party

V/s

The General Secretary,  
 Bhartiya Rail Mazdoor Federation,  
 28-B, Narayan Park, B/H Chandkheda Railway Station,  
 Sabarmati, Ahmedabad (Gujarat) - 382470

.....Second Party

For the First Party : None  
 For the Second Party : None

**AWARD**

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/21/2021-IR (B-I) dated 15.04.2021 for adjudication to this Tribunal.

**SCHEDULE**

“Whether the demand of Bharatiya Rail Mazdoor Federation for restarting of family pension in the case of Smt. Kasturiben Widow of Shri Mukun Chinnaswamy, from the date it is stopped and payment of arrears thereof, is fair, legal and justified? If so, as to what relief Smt. Kasturiben Mukun Chinnaswamy is entitled to?”

1. The reference was received in this Tribunal on 26<sup>th</sup> April, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1100.—** औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (12/2021) प्रकाशित करती है।

[सं. एल-41011/28/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1100.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.12/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/28/2021- IR(B-I)]

SALONI, Dy. Director

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....  
Radha Mohan Chaturvedi,  
Presiding Officer (I/c),  
CGIT-cum-Labour Court,  
Ahmedabad

Dated 15<sup>th</sup> May, 2024

### Reference (CGITA) No. - 12 / 2021

1. The Divisional Railway Manager,  
Western Railway,  
Bhavnagar(Gujarat)- 364001
2. The Sr. Divisional Mechanical Engineer,  
Western Railway,  
Bhavnagar(Gujarat)- 364001

.....First Parties

V/s

The General Secretary,  
Akhil Bharatiya Karmachari Mahasangh, (Rly),  
28-B, Narayan Park, B/H Chandkheda Railway Station,  
Sabarmati, Ahmedabad (Gujarat) - 382470  
For the First Party : None  
For the Second Party : None

.....Second Party

### AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/28/2021-IR (B-I) dated 19.04.2021 for adjudication to this Tribunal.

### SCHEDULE

“Whether the demand of the Akhil Bharatiya Karmachari Mahasangh for dropping SF 11 dated 11.04.2021 issued by the Sr. Divisional Mechanical Engineer, Western Railway, Bhavnagar to Shri Rajesh C. Nirmal, LOCO Pilot, is fair, legal & justified? If so what relief the workman is entitled to?”

1. The reference was received in this Tribunal on 26<sup>th</sup> April, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1101.**— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **पश्चिमी रेलवे** के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (13/2021) प्रकाशित करती है।

[स. एल-41011/27/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1101.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.13/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/27/2021- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
AHMEDABAD**

Present....

Radha Mohan Chaturvedi,  
Presiding Officer (I/c),  
CGIT-cum-Labour Court,  
Ahmedabad

Dated 15<sup>th</sup> May, 2024**Reference (CGITA) No. - 13 / 2021**

The Sr. Divisional Signal and Telecom Engineer,  
Western Railway, Divisional Office,  
Asarwa, Ahmedabad(Gujarat)

.....First Party

V/s

The Zonal Secretary,  
Indian Railway Labour Federation,  
28-B, Narayan Park, B/H Chandkheda Railway Station,  
Sabarmati, Ahmedabad (Gujarat) - 382470

.....Second Party

For the First Party : None  
For the Second Party : None

**AWARD**

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/27/2021-IR (B-I) dated 06.05.2021 for adjudication to this Tribunal.

**SCHEDULE**

“Whether the demand of the Indian Railway Labour Federation for illegal deduction from DCRG amounting to Rs. 60,561/- and wrong pay fixation in respect of Shri Durgaprasad, Khalasi by Railway Administration, is fair legal & justified? If so, what relief the workman is entitled to?”

1. The reference was received in this Tribunal on 21<sup>th</sup> May, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1102.—** औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (25/2021) प्रकाशित करती है।

[सं. एल-41011/35/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1102.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.25/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/35/2021- IR(B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 15<sup>th</sup> May, 2024

#### Reference (CGITA) No. - 25 / 2021

1. The Divisional Railway Manager,  
Western Railway, Asarwa,  
Ahmedabad(Gujarat)- 380016
2. Sr. Divisional Commercial Manager,  
Western Railway, Asarwa,  
Ahmedabad(Gujarat)- 380016

V/s

.....First Parties

The General Secretary,  
Akhil Bharatiya Karmchari Mahasangh,  
28-B, Narayan Park, B/H Chandkheda Railway Station,  
Sabarmati, Ahmedabad (Gujarat) - 382470

.....Second Party

For the First Party : None

For the Second Party : None

#### AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below



mentioned dispute vide reference adjudication Order No. L-41011/35/2021-IR (B-I) dated 20.10.2021 for adjudication to this Tribunal.

### SCHEDULE

“Whether the demand of Akhil Bharatiya Karmachari Mahasangh, Ahmedabad for old pension scheme in respect of Shri Mahendra Singh, Assistant Commercial Clerk under Station Manager, Ahmedabad, is fair, legal & justified? If so what relief the workman is entitled to?”

1. The reference was received in this Tribunal on 26<sup>th</sup> October, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1103.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **पश्चिमी रेलवे** के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (25/2021) प्रकाशित करती है।

[सं. एल-41011/39/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1103.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 27/2021) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/39/2021- IR(B-I)]

SALONI, Dy. Director

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 15<sup>th</sup> May, 2024

Reference (CGITA) No. - 27 / 2021

The Chief Medical Supdt,

Western Railway, Railway Colony,

Sabarmati,

Ahmedabad(Gujarat)- 380005

.....First Party

V/s

The Zonal Secretary,

Bhartiya Rail Mazdoor Federation,

28-B, Narayan Park, B/H Chandkheda Railway Station,

Sabarmati, Ahmedabad (Gujarat) - 382470

..... Second Party

For the First Party : None

For the Second Party : None

### AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/39/2021-IR (B-I) dated 08.11.2021 for adjudication to this Tribunal.

### SCHEDULE

“Whether the demand of the Bhartiya Rail Mazdoor Federation, Ahmedabad for service benefits to Shri Kabji Lal, Zamadar, Kalol after attaining 60 years of age and compassionate appointment to his son is legal, just and proper? If so, as to what relief the Shri Kabji Lal, Zamadar, Kalol is entitled to?”

1. The reference was received in this Tribunal on 22<sup>th</sup> November, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1104.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (28/2021) प्रकाशित करती है।

[सं. एल-41011/40/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1104.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.28/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/40/2021- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**  
**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,**  
**AHMEDABAD**

Present....

Radha Mohan Chaturvedi,  
 Presiding Officer (I/c),  
 CGIT-cum-Labour Court,  
 Ahmedabad

Dated 15<sup>th</sup> May, 2024

**Reference (CGITA) No. - 28 / 2021**

The Divisional Railway Manager,  
 Western Railway, Divisional Office,  
 Personnel department,  
 Ahmedabad (Gujarat)- 382345

.....First Party

V/s

The Zonal Secretary,  
 Bhartiya Rail Mazdoor Federation,  
 28-B, Narayan Park, B/H Chandkheda Railway Station,  
 Sabarmati, Ahmedabad (Gujarat) - 382470

.....Second Party

For the First Party : None

For the Second Party : None

**AWARD**

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/40/2021-IR (B-I) dated 08.11.2021 for adjudication to this Tribunal.

**SCHEDULE**

“Whether the demand of the Union for promotion of S/Shri Lalbhardir R, Dipak Giriraj and Radheshyam Yadav Vehicle Driver Gr. III. at par with Shri Sahiram and Choturam w.e.f. 17.07.2019 is legal, Just and proper? If so, as to what relief, S/Shri Lalbahardir R, Dipak Giriraj and Radheshyam Yadav, Vehicle Driver Gr. III. are entitled to?”

1. The reference was received in this Tribunal on 22<sup>th</sup> November, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1105.—** औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (30/2021) प्रकाशित करती है |

[सं. एल-41011/42/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1105.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.30/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/42/2021- IR(B-I)]

SALONI, Dy. Director

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Radha Mohan Chaturvedi,  
Presiding Officer (I/c),

CGIT-cum-Labour Court,  
Ahmedabad

Dated 15<sup>th</sup> May, 2024

### Reference (CGITA) No. - 30 / 2021

The Divisional Railway Manager,  
Western Railway, Divisional Office,  
Personnel department,  
Ahmedabad(Gujarat)- 382345

.....First Party  
V/s

The Zonal Secretary,  
Bhartiya Rail Mazdoor Federation,  
28-B, Narayan Park, B/H Chandkheda Railway Station,  
Sabarmati, Ahmedabad (Gujarat) - 382470

.....Second Party

For the First Party : None  
For the Second Party : None

### AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/42/2021-IR (B-I) dated 08.11.2021 for adjudication to this Tribunal.

### SCHEDULE

1. "Whether the demand of the Bhartiya Rail Mazdoor Federation, Ahmedabad, for promotion and increment for the year July 2018 to Shri Ashok Sharma and 13 others, Track Maintainer (Gangman) working under Assistant Divisional Engineer, Western Railway, Sabarmati, Ahmedabad is legal, just and proper? If so, as to what relief, Shri Ashok Sharma and 13 others, Track Maintainer (Gangman) are entitled to?"
2. "Whether the demand of the Bhartiya Rail Mazdoor Federation, Ahmedabad for payment of Bonus and travelling allowance for the period from January, 2018 to November, 2018 to Shri Dinesh Kumar, Track Maintainer (Gangman) working under Assistant Divisional Engineer, Western Railway, Sabarmati, Ahmedabad is legal, just and proper. If so, as to what relief Shri Dinesh Kumar, Track Maintainer (Gangman) is entitled to?"
1. The reference was received in this Tribunal on 22<sup>th</sup> November, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1106.**— औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधक, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (31/2021) प्रकाशित करती है।

[सं. एल-41011/43/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1106.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.31/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/43/2021- IR(B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 15<sup>th</sup> May, 2024

#### Reference (CGITA) No. - 31 / 2021

The Divisional Railway Manager,  
Western Railway, Divisional Office,  
Personnel department,  
Ahmedabad(Gujarat)- 382345

.....First Party

V/s

The Zonal Secretary,  
Bhartiya Rail Mazdoor Federation,  
28-B, Narayan Park, B/H Chandkheda Railway Station,  
Sabarmati, Ahmedabad (Gujarat) - 382470

....Second Party

For the First Party : None

For the Second Party : None

#### AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/43/2021-IR (B-I) dated 08.11.2021 for adjudication to this Tribunal.

#### SCHEDULE

“Whether the demand of the Bhartiya Rail Mazdoor Federation, Ahmedabad, for payment of salary for the period shown in the annexure-I to Shri Ashok Sharma and 13 others, Track Maintainer (Gangman) by the Railway management is legal, just and proper. If so, as to what relief, Shri Ashok Sharma and 13 others, Track Maintainer (Gangman) are entitled to?”

1. The reference was received in this Tribunal on 22<sup>th</sup> November, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within

15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1107.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (33/2021) प्रकाशित करती है।

[सं. एल-41011/45/2021- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1107.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.33/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/45/2021- IR(B.I)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 15<sup>th</sup> May, 2024

#### Reference (CGITA) No. - 33 / 2021

1. The Sr. Divisional Mechanical Engineer,  
Western Railway, Dieselshed, Vatva,  
Ahmedabad(Gujarat)- 382440
2. The Director,  
M/s. Anva Rocker Technocraft Pvt. Ltd.  
201, New Opera House, Nr. Harish Dying,  
Khotodra, Surat(Gujarat)- 395002

.....  
V/s

....First Parties

The General Secretary,  
Akhil Bharatiya Karmachari Mahasangh,  
28-B, Narayan Park, B/H Chandkheda Railway Station,  
Sabarmati, Ahmedabad (Gujarat) - 382470

.....

....Second Party

For the First Party : None  
For the Second Party : None

**AWARD**

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-41011/45/2021-IR (B-I) dated 16.11.2021 for adjudication to this Tribunal.

**SCHEDULE**

“Whether the demand of Akhil Bharatiya Karmachari Mahasang, Ahmedabad for reinstatement of Shri Valechand Ramchand Kashiram and Shri Dinesh Kumar Ojha in service with back wages, continuity and all consequential benefits and for payment of wages from March 2020, are fair, legal & justified? If so, what relief the workmen are entitled to?”

1. The reference was received in this Tribunal on 26<sup>th</sup> November, 2021. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1108.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार **युको बैंक** के प्रबंधक, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (25/2020) प्रकाशित करती है।

[स. एल-12011/22/2020- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1108.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.25/2020) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen.

[No. L-12011/22/2020- IR(B-II)]

SALONI, Dy. Director

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
AHMEDABAD**

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 15<sup>th</sup> May, 2024

**Reference (CGITA) No. - 25 / 2020**

1. The Manager,  
UCO Bank,  
13, Abhilasha Complex, Bhagwati Society,  
Near Bus Stop,  
Patan
2. Shri Avinash Parshottam Vyas,  
18, Ratandeeep Society, Unja Road,  
Vill. Hansapur, Distt. Patan

...First Parties

V/s

The General Secretary,  
UCO Bank Nivrut Parivar,  
237, Ellisbridge Shopping Centre,  
Opp. Town Hall, Ellisbridge,  
Ahmedabad (Gujarat)- 380006

...Second Party

For the First Party : None

For the Second Party : None

**AWARD**

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-12011/22/2020-IR (B-II) dated 20.07.2020 for adjudication to this Tribunal.

**SCHEDULE**

“Whether the demand of the Union viaz UCO Bank Nivrut Pariwar (Gujarat) Ahmedabad for reinstatement of services of Shri Avinash Parshottam Vyas, Daily Casual Worker in UCO Bank with back wages and other service benefits w.e.f. 11.06.2018 is legal, just and proper? If so, to what relief Shri Avinash Parshottam Vyas, Daily casual workers is entitled to?”

1. The reference was received in this Tribunal on 17<sup>th</sup> August, 2020. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)



नई दिल्ली, 6 जून, 2024

**का.आ. 1109.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दीन दयाल पोर्ट ट्रस्ट के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (14/2020) प्रकाशित करती है।

[सं. एल-37011/02/2020- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1109.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.14/2020) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Deendayal Port Trust and their workmen.

[No. L-37011/02/2020- IR(B-II)]

SALONI, Dy. Director

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
AHMEDABAD**

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 15<sup>th</sup> May, 2024**Reference (CGITA) No. - 14 / 2020**

1. The Chairman,  
Deendayal Port Trust,  
Administrative Office,  
Post Box No. 50,  
Gandhidham- 370201
2. The Chief Mechanical Engineer,  
Deendayal Port Trust,  
Administrative Office,  
Post Box No. 50,  
Gandhidham- 370201

....First Parties

V/s

The General Secretary,  
Transport & Dock Workers Union,  
F/3, Adinath Arcade-1, Plot No. 583,  
Ward 12-C  
Gandhidham- 370201

.....Second Party

For the First Party : None

For the Second Party : None

**AWARD**

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-37011/02/2020-IR (B-II) dated 30.06.2020 for adjudication to this Tribunal.

**SCHEDULE**

“Whether the demand of the Transport & Dock Workers Union of classifying the Lift Operators in Class-III category at par with senior Office Attendants is legal, just and proper? And if yes, what relief the concerned Union/lift operators is entitled to and to what extent?”

1. The reference was received in this Tribunal on 04<sup>th</sup> August, 2020. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1110.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दीन दयाल पोर्ट ट्रस्ट के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (15/2020) प्रकाशित करती है।

[सं. एल-37011/01/2020- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1110.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.15/2020) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Deendayal Port Trust and their workmen.

[No. L-37011/01/2020- IR(B-II)]

SALONI, Dy. Director

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
AHMEDABAD**

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 15<sup>th</sup> May, 2024

**Reference (CGITA) No. - 15 / 2020**

1. The Chairman,  
Deendayal Port Trust,  
Administrative Office Building,  
Post Box No. 50,  
Gandhidham- 370201
2. The Chief Engineer,  
Deendayal Port Trust,  
Administrative Office, P.B No. 50,  
Gandhidham- 370201

.....First Parties

V/s

The General Secretary,  
Transport & Dock Workers Union,  
F/3, Adinath Arcade-1, Plot No. 583,  
Ward 12-C  
Gandhidham- 370201

.....Second Party

For the First Party : None  
For the Second Party : None

**AWARD**

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-37011/01/2020-IR (B-II) dated 24.06.2020 for adjudication to this Tribunal.

**SCHEDULE**

“Whether the action of the management of Deendayal Port Trust, Gandhidham in redeploying and posting of outdoor staff in offices to work in the Ministerial Cadre that resulted in changes in duty pattern is legal, just and proper? And if not, what relief the concerned outdoor staff/union is entitled to and to what extent?”

1. The reference was received in this Tribunal on 04<sup>th</sup> August, 2020. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1111.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (23/2020) प्रकाशित करती है।

[सं. एल-12011/23/2020- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1111.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 23/2020) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen.

[No. L-12011/23/2020- IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 15<sup>th</sup> May, 2024

#### Reference (CGITA) No. - 23 / 2020

1. The Manager,  
UCO Bank,  
25-26, Ground Floor, Kranti Bhawan,  
Modhera Cross Roads,  
Mehsana(Gujarat)- 382002
2. Shri Hitesh K. Mali,  
1-9, Sundar Nagar Flats,  
Naranpura Cross Road, Ankur Road,  
Naranura, Ahmedabad(Gujarat)

.....First Parties

V/s

The General Secretary,

UCO Bank Nivrut Parivar,

237, Ellisbridge Shopping Centre,

Opp. Town Hall, Ellisbridge,

Ahmedabad (Gujarat)- 380006

.....Second Party

For the First Party : None

For the Second Party : None

#### AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the

below mentioned dispute vide reference adjudication Order No. L-12011/23/2020-IR (B-II) dated 20.07.2020 for adjudication to this Tribunal.

#### SCHEDULE

“Whether the demand of the Union viz UCO Bank Nivrut Pariwar(Gujarat) Ahmedabad for reinstatement of services of Shri Hitesh K. Mali, Daily Casual Worker/Sweeper in UCO Bank with back wages and other services benefits w.e.f. 19.04.2018 is legal, just and proper? If so, to what relief Shri Hitesh K. Mali, Daily Casual Worker/Sweeper is entitled to?”

1. The reference was received in this Tribunal on 17<sup>th</sup> August, 2020. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 6 जून, 2024

**का.आ. 1112.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (16/2020) प्रकाशित करती है।

[सं० एल-12011/21/2020- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2024

**S.O. 1112.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.16/2020) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen.

[No. L-12011/21/2020- IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Radha Mohan Chaturvedi,

Presiding Officer (I/c),

CGIT-cum-Labour Court,

Ahmedabad

Dated 15<sup>th</sup> May, 2024

**Reference (CGITA) No. - 16 / 2020**

The Deputy General Manager,

Bank of Baroda,

North West Gujarat Zone,

Opp; Law Garden, Ellisbridge,

Ahmedabad(Gujarat)- 380006

.....First Party

V/s

The General Secretary,

Glorious Petroleum Mazdoor Sangh,

A/3, Priya Darshini Society, New Railway Colony, Sabarmati,

Ahmedabad(Gujarat)- 380019

.....Second Party

For the First Party : None

For the Second Party : None

### AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-12011/21/2020-IR (B-II) dated 24.06.2020 for adjudication to this Tribunal.

### SCHEDULE

“Whether the demand of the General Secretary, Glorious Petroleum Mazdoor Sang, Ahmedabad to appoint Shri Jayesh P. Tundiya son of late Shri Pradhyunmanbhai K. Tundiya, Head Peon at service Branch, Ahmedabad in the establishment of Bank of Baroda on compassionate ground with all benefits w.e.f. 11.10.2008 or ex-gratia payment to him is legal, fair and justified? If yes, then what relief the legal heir Shri Jayesh P. Tundiya of late Shri Pradhyumanbhai K. Tundiya is entitled to and what other directions, if any, are necessary in the matter?”

1. The reference was received in this Tribunal on 04<sup>th</sup> August, 2020. The Ministry had directed the party raising the dispute to file his statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.
2. Considering the period of outbreak of the COVID-19 pandemic and spread of the new variant of the same which was from March 2020 to February 2022 as excluded, a period of more than two years has been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.
3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.
4. It is therefore just & proper to pass an award considering “no dispute” between the parties.
5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act, 1947.

RADHA MOHAN CHATURVEDI, Presiding Officer (I/c)

नई दिल्ली, 7 जून, 2024

**का.आ. 1113.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (60/2004) प्रकाशित करती है।

[सं. एल-12012/111/2004- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 7th June, 2024

**S.O. 1113.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.60/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur*

as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12012/111/2004- IR(B-II)]

SALONI, Dy. Director

### ANNEXURE

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.— 60/2004

Reference No. L-12012/111/2004-IR (B-II)

Dated: 07.10.2004

श्री पृथ्वीराज वर्मा पुत्र श्री करतारा राम वर्मा, निवासी— विजय फ्लोर मिल, वार्ड नम्बर 12, पुरानी आबादी, श्री गंगानगर, (राजस्थान)।

.....प्रार्थी

### बनाम

1. क्षेत्रीय प्रबंधक, पंजाब नेशनल बैंक, क्षेत्रीय कार्यालय, मीरा चौक, जवाहर नगर, श्रीगंगानगर (राजस्थान)।

.....अप्रार्थी / विपक्षी

उपस्थित:—

: श्री वी. एस. नैन, अभिभाषक प्रार्थी।

: श्री प्रवीण पुरोहित, अभिभाषक विपक्षी।

: अधिनिर्णय :

दिनांक : 24.04.2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 07.10.2004 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (घ) व 2A के अन्तर्गत प्रदत्त शक्तियों के अनुसरण में निम्नांकित औद्योगिक विवाद न्याय निर्णयन हेतु इस अधिकरण को संदर्भित किया गया :—

***“Whether the action of the management of Punjab National Bank, Sri Ganganagar in imposing the punishment of dismissal from service without notice on Shri Prathviraj Verma vide order dated 26-10-2002 is justified? If not, what relief the workman is entitled to and from which date?”***

2. प्रार्थी की ओर से दिनांक 19.04.2004 को अंग्रेजी भाषा में अपने दावे का अभिकथन प्रस्तुत किया गया। जिसका संक्षिप्त अनुदित वर्णन इस प्रकार है:—
3. प्रार्थी की नियुक्ति पीलीबंगा शाखा में दिनांक 19.04.1984 को पीओन के पद पर हुई थी। वहाँ उसने 19.05.1987 तक कार्य किया तत्पश्चात दिनांक 20.05.1987 को उसे लिपिक के पद पर पदोन्नत करते हुये हनुमानगढ़ टाउन भेजा गया। सितम्बर, 1989 में प्रार्थी को हनुमानगढ़ टाउन से विपक्षी बैंक की शाखा बांदा में स्थानांतरित किया गया। उक्त शाखा में कोई नियमित प्रबंधक नहीं था और श्री पवन कुमार शर्मा, लेखाकार शाखा प्रबंधक के रूप में कार्य कर रहे थे। श्री पवन कुमार शर्मा गंभीर अनियमितताओं में संलिप्त थे जिनका प्रार्थी द्वारा विरोध किया गया। इसलिए श्री पवन कुमार शर्मा द्वारा दुर्भावना पूर्वक प्रार्थी के विरुद्ध षड़यंत्र रचते हुये दिनांक 25.07.2001 को निलम्बित कर दिया गया। यह निलम्बन अनाधिकृत था। दिनांक 06.12.2001 को प्रार्थी को आरोप पत्र दिया गया जो कि शाखा प्रबंधक ने ही हस्ताक्षरित किया, जो इस हेतु सक्षम नहीं थे। प्रार्थी के विरुद्ध जो आरोप लगाये गये उनका वर्णन दावे के पेरा 7 में किया गया है। प्रार्थी जाति से कुम्हार है और श्री पवन कुमार शर्मा शहर के प्रतिष्ठित व्यक्तियों से सम्पर्क में होने के कारण प्रभावशाली थे। शाखा प्रबंधक ने प्रार्थी को शारीरिक व मानसिक रूप से उत्पीडित करते हुये कुछ पत्रों पर हस्ताक्षर अपनी इच्छानुसार करवा लिये। जॉच अधिकारी की नियुक्ति के

बाद जॉच के समय उक्त श्री पवन कुमार शर्मा वहीं उपस्थित रहते थे ताकि जॉच कार्यवाही को प्रभावित किया जा सके। जॉच अधिकारी ने प्रार्थी को समुचित बचाव का अवसर नहीं दिया तथा प्राकृतिक न्याय के सिद्धान्तों का हनन करते हुये प्रार्थी के विरुद्ध आरोप सिद्ध मान लिये गये और दिनांक 26.10.2002 को प्रार्थी की सेवा समाप्त कर दी गई। प्रार्थी द्वारा प्रस्तुत अपील भी दिनांक 31.07.2003 को अस्वीकार कर दी गई। प्रार्थी को पेंशन का लाभ भी नहीं दिया गया जो विपक्षी बैंक के अधिकारियों की दुर्भावना का प्रमाण है। प्रार्थी के विरुद्ध दिया गया दण्डादेश उसके दुराचरण का अनुपातिक नहीं हैं। सेवा समाप्ति के उपरांत प्रार्थी बेरोजगार है। अतः प्रार्थी के विरुद्ध की गई जॉच और पारित दण्डादेश को अपास्त करते हुये प्रार्थी को सेवा में निरंतरता और पारिणामिक वेतन परिलाभों सहित सेवा में पुनः बहाल किया जावे।

4. दिनांक 11.01.2005 को विपक्षी द्वारा अंग्रेजी भाषा में प्रस्तुत वादोत्तर का संक्षिप्त अनुदित विवरण इस प्रकार है:
5. विपक्षी का कथन है कि प्रार्थी को जो आरोप पत्र दिनांक 06.12.2001 को दिया गया वह गोविन्दराम से 30,000—/ अक्षरे तीस हजार रु. प्राप्त करने उसकी रसीद दे देने, किंतु कैशबुक में और ऋणखाते जैसे बैंक के अभिलेखों में उनकी प्रविष्टि न करने तथा 5000—/ हजार रु. प्रीतम सिंह नाम के खातेदार से प्राप्त कर बैंक में जमा न करने से संबंधित दुराचरण के लिए था। प्रार्थी ने उसके विरुद्ध लगाये गये आरोपों को स्वीकार किया। किंतु फिर भी अनुशासनिक प्राधिकारी ने प्रार्थी के विरुद्ध विभागीय जॉच करने का आदेश दिया। जॉच अधिकारी ने भी प्रार्थी की स्पष्ट स्वीकृति के आधार पर अपना प्रतिवेदन प्रस्तुत किया और अनुशासनिक प्राधिकारी द्वारा जॉच अधिकारी के निष्कर्ष से सहमत होते हुये बिना नोटिस बैंक सेवा से पदच्युति का आदेश दिया। अपीलीय प्राधिकारी ने भी सकारण आदेश पारित करते हुये दण्डादेश की पुष्टि की। इस प्रकार जॉच कार्यवाही और दण्डादेश पारित करने में प्राकृतिक न्याय के सिद्धान्तों का हनन नहीं हुआ। यदि जॉच को दूषित पाया जाये तो विपक्षी बैंक को आरोप प्रमाणित करने के लिये साक्ष्य प्रस्तुत करने का अवसर प्रदान किया जावे। प्रार्थी ने स्वेच्छा से आरोप स्वीकार किये हैं। तत्कालीन शाखा प्रबंधक पर लगाये गये अभियोग पश्चातवर्ती विचार मात्र है। प्रार्थी का निलंबन क्षेत्रीय अधिकारी के अनुमोदन से किया गया है। वाद पत्र में वर्णित सभी कथन गलत होने से अस्वीकार है। प्रार्थी ने जो दुराचरण बैंक के प्रति किया वह अक्षम्य है। इसलिए उसे पेंशन का लाभ नहीं दिया जा सकता और दण्डादेश न्यायोचित और पर्याप्त हैं। अतः वाद निरस्त किया जावे।
6. दिनांक 02.06.2005 को मेरे पूर्व पीठासीन अधिकारी द्वारा विभागीय जॉच की शुद्धता का परीक्षण कर उसे उचित एवं ऋजु पाया।
7. प्रार्थी ने तदुपरांत प्रार्थी के विरुद्ध बैंक अधिकारियों की दुर्भावना एवं वैमनस्य को प्रमाणित करने हेतु साक्ष्य प्रस्तुत करने का अवसर माँगा जिसे इस अधिकरण द्वारा अस्वीकार कर दिया गया। इस आदेश के विरुद्ध प्रार्थी ने माननीय राजस्थान उच्च न्यायालय के समक्ष सिविल रिट पिटीशन सं. 7791/2005 पृथ्वीराज वर्मा बनाम रीजनल मैनेजर पंजाब नेशनल बैंक प्रस्तुत की। इस याचिका पर माननीय राजस्थान उच्च न्यायालय ने दिनांक 25.01.2006 को आदेश पारित करते हुये यह निर्देश दिया कि अधिकरण याची को दुर्भावना एवं अनुचित श्रम व्यवहार के सीमित क्षेत्र में साक्ष्य प्रस्तुत करने का अवसर दें। विपक्षी बैंक को प्रार्थी की साक्ष्य का विखण्डन करने का अधिकार होगा।
8. इस आदेश के अनुसरण में प्रार्थी ने स्वयं पृथ्वीराज वर्मा को साक्ष्य में परीक्षित किया और प्रलेखीय साक्ष्य के रूप में प्रदर्श—W 1 से प्रदर्श —W 3, तक प्रदर्शित किये।
9. विपक्षी ने अपनी साक्ष्य में श्री काली प्रसाद शर्मा, वरिष्ठ प्रबंधक को परीक्षित किया और कोई प्रलेख पृथक से प्रदर्शित नहीं किया।
10. दिनांक 21.03.2024 को मैंने उभयपक्ष के तर्क, प्रस्तुत की गई साक्ष्य एवं न्यायिक दृष्टांतों में पारित विधि के संदर्भ में सुने।
11. प्रार्थी की ओर से यह तर्क है कि प्रार्थी के लम्बे कार्यकाल में उसके विरुद्ध दुराचरण की कोई शिकायत नहीं हुई। कार्यवाहक शाखा प्रबंधक श्री पवन कुमार शर्मा अनियमितताओं में लिप्त था। प्रार्थी द्वारा उसका विरोध करने पर वह उससे दुर्भावना रखने लगा। प्रार्थी को डरा-धमका कर और मारपीट कर आरोप पत्र में वर्णित दुराचरण को स्वीकार कर लेने का दबाव डाला गया और यह आश्वासन दिया गया कि उसे बचा लिया जायेगा। प्रार्थी के निलंबन हेतु शाखा प्रबंधक सक्षम ही नहीं था। विपक्षी बैंक ने उक्त पवन कुमार शर्मा को बैंक की सेवा में रहते हुये भी विखंडन हेतु साक्ष्य में परीक्षित नहीं किया। प्रार्थी के किसी भी दुराचरण से बैंक को कोई हानि नहीं हुई। प्रार्थी ने सभी रुपये ब्याज सहित जमा करवा दिये। इस स्थिति में पदच्युति का दण्ड दुराचरण का अनुपाती नहीं है। अतः न्यायिक



हस्तक्षेप करते हुये दण्डादेश को अपास्त किया जाना उचित होगा। उन्होनें अपने तर्क के समर्थन में निम्नांकित निर्णय प्रस्तुत किये:

1. इलाहाबाद बैंक व अन्य बनाम कृष्ण नारायण तिवारी 2017 **LAB I.C.** 892 (सुप्रीम कोर्ट)।
2. ऐ. के. सक्सेना बनाम स्टेट बैंक ऑफ पटियाला व अन्य (2016) 11 **SCC** 289।
12. विपक्षी की ओर से यह विरोधी तर्क है कि प्रार्थी के विरुद्ध की गई विभागीय जाँच उचित एवं शुद्ध पायी गई है। प्रार्थी की साक्ष्य से बैंक अधिकारी पवन कुमार शर्मा के विरुद्ध जो अभियोग लगाया गया है वह न तो विश्वसनीय है न ही प्रमाणित हुआ है। प्रार्थी ने प्रदर्श—W 1 व प्रदर्श—W 2 दानाराम और प्रीतम सिंह के शपथ पत्रों की मात्र फोटो प्रतियाँ प्रस्तुत की है जो न तो विश्वसनीय है न ही साक्ष्य में ग्रहण की जा सकती है। इन व्यक्तियों को प्रार्थी ने साक्ष्य में प्रस्तुत भी नहीं किया। प्रदर्श—W 3, प्रार्थी स्वयं द्वारा तैयार किया गया कार्य विवरण है जो कि किसी प्रकार विश्वसनीय नहीं लगता क्योंकि सेवा से निकाले जाने के बाद प्रार्थी से कोई कार्य बैंक में नहीं लिया गया। प्रदर्श—W 3 पर किसी भी बैंक अधिकारी का प्रमाणीकरण नहीं है। प्रार्थी ने स्वीकार किया है कि शपथ पत्र के पैरा 3 में वर्णित कार्यों के संदर्भ में कोई दस्तावेजी साक्ष्य नहीं है। उसके साथ शारीरिक मारपीट व उत्पीड़न के संबंध में उसने कोई प्रथम सूचना नहीं दी। वह स्वीकार करता है कि दिनांक 05.07.2000 के बाद वह कभी बैंक नहीं गया। प्रार्थी ने यह भी माना है कि पारिवारिक परिस्थितियों व माँ के ईलाज के लिये उसे ऐसा कार्य करना पड़ा। इस स्थिति में प्रार्थी के प्रति बैंक अधिकारी द्वारा दुर्भावना रखने व अनुचित श्रम व्यवहार करने का तथ्य प्रमाणित नहीं होता है। प्रार्थी को दिया गया दण्ड किये गये दुराचरण को देखते हुये उचित व अनुपातिक है, जिसमें कोई हस्तक्षेप नहीं किया जाना चाहिये। उन्होनें अपने तर्क के समर्थन में निम्नलिखित निर्णय प्रस्तुत किये:

1. नगर पालिका नाटौर बनाम यू. पी. पब्लिक सर्विस कमीशन ट्रिब्यूनल लखनऊ (1998) 2 **SCC** 400।
2. स्वदेश पाल बालियान बनाम एयर फोर्स कमांडिंग इन चीफ 2004 (4) **SCT** 726 (सुप्रीम कोर्ट)।
13. उभयपक्ष के तर्क, साक्ष्य एवं विधि पर मनन के उपरांत इस विवाद में निम्नांकित विचारणीय बिन्दु उत्पन्न हुये हैं:

14. विचारणीय बिन्दु:

1. क्या शाखा प्रबंधक पवन कुमार शर्मा द्वारा स्वयं एवं अन्य व्यक्तियों के साथ मिलकर प्रार्थी को मानसिक एवं शारीरिक रूप से उत्पीड़ित कर स्वयं की इच्छानुसार प्रार्थी से उसकी हस्तलिपि में कुछ पत्र लिखवाये गये तथा प्रार्थी को आरोप स्वीकार करने हेतु विवश किया गया एवं जाँच कार्यवाही को अनुचित रूप से प्रभावित किया गया जो अनुचित श्रम व्यवहार है?

.....प्रार्थी

2. क्या प्रार्थी के विरुद्ध पारित दण्डादेश सिद्ध दुराचरण के प्रति अननुपाती है जिसमें न्यायिक हस्तक्षेप किया जाना अपेक्षित है?

.....प्रार्थी

3. अनुतोष:—

15. विचारणीय बिन्दुओं पर क्रमिक विनिश्चय इस प्रकार है:

16. विचारणीय बिन्दु सं. 1

17. इस संबंध में प्रार्थी ने स्वयं का शपथ पत्र साक्ष्य में प्रस्तुत कर यह कहा है कि शाखा प्रबंधक श्री पवन कुमार शर्मा के अनुचित कार्यकलापों में सहयोग न करने के कारण वह उससे नाराज हो गये। उन्होनें बैंक ग्राहकों से खाली कागजों पर हस्ताक्षर करवा कर झूठी शिकायतें प्रार्थी के विरुद्ध कर झूठा रिकार्ड बनाया तथा प्रीतम सिंह व दानाराम के नाम से शिकायतें कूटरचित की। दिनांक 05.07.2001 को प्रार्थी के साथ बैंक के अन्दर मारपीट की। पवन कुमार शर्मा ने मानसिक दबाव और उत्पीड़न करते हुये जाँच में सभी आरोपों को स्वीकार करने को कहा। दबाव व भय के कारण प्रार्थी ने जाँच अधिकारी के समक्ष आरोपों को स्वीकार किया। प्रार्थी ने प्रतिपरीक्षा में यह कहा है कि शपथ पत्र के पैरा 3 में वर्णित तथ्यों (पवन कुमार शर्मा के कथित दुराचरण में साथ न देने से पवन कुमार का प्रार्थी से नाराज होना तथा झूठी शिकायतें तैयार करवाना) के संबंध में कोई दस्तावेज पेश नहीं किया है,

क्योंकि उसे पेश नहीं करने दिया— उसने दानाराम व प्रीतम सिंह को जॉच में पेश नहीं किया, उसने इस बात की अलग से शिकायत भी नहीं की।

18. प्रार्थी ने शपथ पत्र के पेरा 4 में वर्णित तथ्यों (प्रीतम सिंह व दानाराम के नाम से झूठी शिकायतें तैयार करवाना, अवैध कार्यों पर पर्दा डालना तथा 05.07.2001 को प्रार्थी के साथ मारपीट करना) के संबंध में कोई प्रथम सूचना (F.I.R.) दर्ज नहीं करवायी। उच्चाधिकारियों को भी सूचित नहीं किया न ही इस संबंध में दस्तावेज पेश किये हैं। जॉच कार्यवाही के दौरान पवन कुमार शर्मा के उपस्थित रहने और हस्तक्षेप करने के संबंध में भी कोई शिकायत नहीं की।
19. इस प्रकार यह स्पष्ट है कि प्रार्थी ने जो कथन अपने मुख्य परीक्षण के शपथ पत्र में किये हैं उनका कोई समर्थन किसी भी प्रलेख अथवा किसी व्यक्ति की मौखिक साक्ष्य से नहीं किया। जबकि प्रार्थी के विरुद्ध कथित मिथ्या शिकायतों को लिखवाने का तथ्य उन शिकायतों के साक्ष्य में प्रस्तुतिकरण एवं कथित शिकायतकर्ताओं को साक्ष्य में परीक्षित कर, प्रमाणित किया जा सकता था, किंतु प्रार्थी ने प्रीतम सिंह व दानाराम नाम के व्यक्तियों को भी साक्ष्य में परीक्षित नहीं किया है।
20. प्रार्थी की यह स्वीकृति कि उसने दिनांक 05.07.2001 को पवन कुमार शर्मा द्वारा बैंक की शाखा में, कार्य-समय में की गई मारपीट के अपराध की कोई प्रथम सूचना प्रस्तुत नहीं की, प्रार्थी के अभियोग को अस्वाभाविक एवं संदिग्ध बनाती है। शारीरिक उत्पीड़न एवं मारपीट जो संस्वीकृति करवाने के उद्देश्य से की गई हो, निश्चित रूप से एक गंभीर एवं संज्ञेय अपराध है। ऐसे अपराध की सूचना न तो पुलिस को और न ही बैंक के उच्चाधिकारियों को देना प्रार्थी के कथन को मिथ्या प्रमाणित करता है।
21. इस तथ्यात्मक परिदृश्य में प्रार्थी पर किसी प्रकार के दबाव या उत्पीड़न का प्रयोग कर पवन कुमार शर्मा द्वारा आरोपों के प्रति संस्वीकृति करवाना विश्वसनीय नहीं लगता है।
22. अब में प्रार्थी द्वारा की गई संस्वीकृति के पत्रों का उल्लेख करना भी सुसंगत मानता हूँ। यहाँ यह भी उल्लेखनीय है कि प्रार्थी के विरुद्ध लगाये गये आरोपों का मिथ्या शिकायतों पर आधारित होना भी प्रमाणित नहीं पाया गया है। इसलिए प्रार्थी पवन कुमार शर्मा द्वारा यह आश्वासन दिया जाना कि वह उसे आरोप स्वीकार कर लेने पर दण्ड से बचा लेगा, स्वतः ही आधारहीन हो जाता है।
23. दिनांक 21.12.2001 को प्रार्थी द्वारा की गई संस्वीकृति में प्रार्थी ने उसकी माताजी के ज्यादा बीमार होने व बाद में उनका स्वर्गवास हो जाने के कारण जमाकर्ताओं की राशि का प्रयोग कर लिया जाना तथा बाद में ब्याज सहित राशि जमा करवा देना स्वीकार किया है। यदि प्रार्थी ने बैंक के जमाकर्ताओं की राशि का व्यय निजी उद्देश्यों से नहीं किया होता तो इस राशि को ब्याज सहित जमा करवाने की स्थिति उत्पन्न ही नहीं होती। प्रार्थी ने दिनांक 25.03.2002 को जॉच अधिकारी को प्रेषित पत्र में आरोपों की संस्वीकृति करते हुये विभागीय जॉच की आवश्यकता ही न होने का कथन किया है। दिनांक 25.05.2002 को प्रार्थी ने अनुशासनिक प्राधिकारी को संबोधित पत्र में भी अपनी संस्वीकृति को पुनरावृत्त किया है। किंतु यह संस्वीकृति पवन कुमार शर्मा के दबाव या उसे बचा लेने के मिथ्या आश्वासन के प्रभाव में करना प्रार्थी ने नहीं कहा है। इसलिए प्रार्थी द्वारा अपील के ज्ञापन मात्र में, दिनांक 26.10.2002 को दण्डादिष्ट किये जाने के उपरांत पवन कुमार शर्मा द्वारा उत्पीड़न व दबाव डालने का कथन करना प्रार्थी द्वारा अपनी प्रतिरक्षा में सुविचारित एवं निर्मित एक पश्चातवर्ती विचार मात्र लगता है, जो किसी प्रकार विश्वसनीय न होने से ग्रहण नहीं किया जा सकता। प्रार्थी के विरुद्ध की गई जॉच इस अधिकरण द्वारा वैध एवं उचित पायी गई है। इस विवेचन के उपरांत प्रार्थी पर तत्कालीन शाखा प्रबंधक द्वारा दुर्भावना-जनित शारीरिक एवं मानसिक उत्पीड़न करना या अनुचित श्रम व्यवहार करना प्रार्थी के साक्ष्य से प्रमाणित नहीं हुआ है। विपक्षी के साक्षी काली प्रसाद ने अपने मुख्य परीक्षण में जो कथन किये हैं वे प्रतिपरीक्षा में खण्डित नहीं हो पाये हैं। इस निष्कर्ष के उपरांत यह बिन्दु प्रार्थी के विरुद्ध निर्णीत किया जाता है।
24. विचारणीय बिन्दु सं. 2
25. बिन्दु सं. 1 के विनिश्चय के अन्तर्गत प्रार्थी द्वारा लगाये गये अभियोग प्रमाणित नहीं हुये हैं। प्रार्थी द्वारा की गई आरोपों की संस्वीकृति स्वैच्छिक व किसी दबाव या उत्पीड़न के प्रभाव बिना की गई है। इन आरोपों के अन्तर्गत प्रार्थी पर विपक्षी बैंक के 2 खातेदारों से कुल 35,000/- (अक्षरे पैंतीस हजार) रु. प्राप्त करने के पश्चात उनके खातों में जमा न करते हुये इस राशि का दुर्विनियोजन करना प्रमाणित हुआ है। अभिभाषक प्रार्थी का यह तर्क है कि यह राशि प्रार्थी द्वारा ब्याज सहित वापिस चुका दिये जाने से बैंक को कोई क्षति नहीं पहुंची है। प्रार्थी से सेवा

समाप्ति के उपरांत भी विपक्षी बैंक की शाखा में कार्य लिया गया है जो प्रार्थी की कार्य कुशलता एवं निष्ठा का प्रमाण है। प्रार्थी के लम्बे कार्यकाल के दौरान कोई शिकायत नहीं हुई, न ही दण्ड दिया गया। इसलिए प्रार्थी को सेवा से बर्खास्तगी का दण्ड सिद्ध किये गये दुराचरण का अनुपातिक नहीं है। अतः अधिकरण द्वारा, दण्डादेश को अपास्त किया जावे। उन्होंने अपने तर्क के समर्थन में सर्वोच्च न्यायालय द्वारा पारित निर्णय इलाहाबाद बैंक व अन्य बनाम कृष्ण नारायण तिवारी का अवलम्ब लिया है। इस निर्णय में माननीय उच्चतम न्यायालय ने यह कहा है कि जब प्राकृतिक न्याय के सिद्धांतों का हनन हुआ हो तो सेवा से बर्खास्तगी का दण्ड अपास्त करते हुये सेवा निवृत्ति लाभ एवं सेवा में निरंतरता सहित 50 प्रतिशत विगत वेतन दिलाया जाना न्यायोचित है।

26. सर्वोच्च न्यायालय द्वारा ही निर्णय ऐ. के. सक्सेना बनाम स्टेट बैंक ऑफ पटियाला व अन्य में पारित विधि का उल्लेख करते हुये प्रार्थी के अभिभाषक का आग्रह है कि ग्राहक के खाते से छलपूर्वक 80000/- रु. का आहरण प्रमाणित होने पर भी सेवा समाप्ति के स्थान पर प्रार्थी की सेवा निवृत्ति की आयु को दृष्टिगत रख उसे सेवा निवृत्त माने जाने एवं तत्संबंधी परिलाभ प्रदान करने का आदेश दिया गया है।
27. मैंने इन निर्णयों में पारित विधि पर विचार किया। इन निर्णयों में पारित अधिमत हस्तगत विवाद के तथ्यों से सुभिन्न तथ्यों के आधार पर पारित किया गया है। इस विवाद में प्रार्थी के विरुद्ध की गई जॉच में प्राकृतिक न्याय के सिद्धांतों का हनन होना नहीं पाया गया तथा जॉच प्रक्रिया शुद्ध एवं उचित पायी गई है। प्रार्थी के साथ अन्य कोई सह आरोपित कर्मचारी भी नहीं है जिसके प्रति समान दुराचरण के लिए उदारता बरती गई हो। इसलिए तथ्यात्मक भिन्नता के कारण इन निर्णयों में पारित विधि प्रार्थी के पक्ष में सहायक नहीं है।
28. इसके विपरीत विपक्षी का यह तर्क है कि प्रार्थी द्वारा ब्याज सहित धनराशि वापिस जमा करवा देने तथा बैंक को आर्थिक क्षति न होने के कारण प्रार्थी का दुराचरण क्षम्य नहीं हो जाता है। प्रार्थी ने बैंक के विश्वास का हनन करते हुये प्रतिष्ठा को ठेस लगाई है। प्रार्थी ने आरोपों को स्वीकार भी किया है। प्रार्थी से सेवा समाप्ति के बाद बैंक में कोई कार्य नहीं करवाया गया। प्रार्थी द्वारा प्रस्तुत विवरण प्रदर्श—W 3 स्वयं प्रार्थी द्वारा निर्मित है। जिस पर विपक्षी द्वारा कोई प्रमाणीकरण या सत्यापन नहीं किया गया है। उन्होंने माननीय उच्चतम न्यायालय द्वारा पारित निर्णयों नगर पालिका नाटौर बनाम यू. पी. पब्लिक सर्विस कमीशन ट्रिब्यूनल लखनऊ तथा स्वदेश पाल बालियान बनाम एयर फोर्स कमांडिंग इन चीफ में पारित विधि का अवलम्ब लेते हुये निवेदन किया कि प्रार्थी के विरुद्ध पारित दण्डादेश में हस्तक्षेप नहीं किया जाना चाहिये।
29. इन निर्णयों में माननीय उच्चतम न्यायालय ने यह मार्गदर्शन दिया है कि जब आरोपित द्वारा दुराचरण की संस्वीकृति की गई हो तो सह अभियुक्त या किसी साक्षी विशेष को प्रस्तुत न किये जाने से आरोपित की प्रतिरक्षा विक्षुब्ध नहीं होती। जॉच प्रक्रिया प्राकृतिक न्याय के सिद्धांतों के अनुरूप हो तथा जॉच से आरोप प्रमाणित भी हो तो सेवामुक्ति का दण्ड उचित है।
30. मैंने उभयपक्षों के तर्कों पर ध्यानपूर्वक मनन किया। इस विवाद में प्रार्थी के विरुद्ध प्रमाणित तथ्यों के अनुसार प्रार्थी ने विपक्षी बैंक के खातेदारों से कुल 35,000/- (अक्षरे पैंतीस हजार) रु. प्राप्त करने के बाद उनके संबंधित खातों में जमा न करते हुये उस राशि का निजी उद्देश्यों से दुर्विनियोजन किया तथा आरोप स्वीकार किया। मेरे अभिमत से यह महत्वपूर्ण नहीं है कि पश्चातवर्ती घटनाक्रम में प्रार्थी ने यह धनराशि ब्याज सहित जमा करवा दी हो तथा बैंक को कोई आर्थिक क्षति नहीं हुई हो। एक बैंक कर्मचारी से उच्च स्तर की ईमानदारी, कर्तव्यनिष्ठा एवं सावधानी की अपेक्षा की जाती है। धनराशि वापिस कर देने पर भी दुराचरण का शमन नहीं होता। न्यायालय द्वारा दण्डादेश में हस्तक्षेप करते समय न केवल धनराशि वरन् मनोदशा, कर्तव्य का स्वरूप तथा अन्य सुसंगत परिस्थितियां जिनमें बैंक एवं खातेदार के मध्य पारस्परिक विश्वास का संबंध भी समलित है, पर विचार किया जाना अपेक्षित होता है। जहाँ विश्वास, सत्यनिष्ठा एवं कर्तव्यपरायणयिता एक अंतर्निहित अपेक्षा हो तो दुराचरण को कठोरता से लिया जाना चाहिये। दिया गया दण्ड यदि निराधार, मनमाना एवं दुर्भावनापूर्ण हो जिससे न्यायालय की न्यायिक अन्तात्मा उद्वेलित हो तभी उसमें हस्तक्षेप किया जाना चाहिये। अधिनियम की धारा 11 (क) के अन्तर्गत न्यायिक शक्ति असीमित एवं अनियंत्रित नहीं है। जब जॉच उचित पायी गई हो और दुराचरण सिद्ध हो गया हो तो दण्ड का निर्धारण अनुशासनिक प्राधिकारी के सद्विवेक पर ही छोड़ दिया जाना चाहिये। प्रार्थी द्वारा किये गये दुराचरण से यद्यपि बैंक को कोई आर्थिक क्षति नहीं हुई, किंतु प्रार्थी ने उसके नियोजक बैंक द्वारा प्रार्थी में न्यस्त विश्वास को अपरिमित हानि पहुँचायी है। व्यवसायिक समव्यवहार में विश्वास का भंग होना प्रार्थी पर आरोपित दण्ड को युक्ति संगत एवं न्यायोचित ठहराता है। इसलिये इस अधिकरण के सुविचारित अधिमत से प्रार्थी के विरुद्ध पारित पदच्युति का दण्डादेश उसके विरुद्ध सिद्ध हुये दुराचरण का अनुपातिक है एवं हस्तक्षेप योग्य नहीं है। अतः यह बिन्दु प्रार्थी के विरुद्ध निर्णीत किया जाता है।

31. अनुतोषः—

32. विचारणीय बिन्दु सं. 1 व 2 प्रार्थी के विरुद्ध निर्णीत होने पर विपक्षी बैंक द्वारा प्रार्थी के विरुद्ध पारित बिना नोटिस सेवा से बर्खास्तगी का दण्ड न्यायोचित प्रमाणित होता है, जिसमें कोई हस्तक्षेप अपेक्षित नहीं है।
33. श्रम मंत्रालय भारत सरकार द्वारा संदर्भित विवाद को इसी प्रकार न्याय निर्णीत किया जाता है।
34. अधिनिर्णय की प्रतिलिपि समुचित सरकार को अधिनियम, की धारा 17 (1) के अंतर्गत प्रकाशनार्थ प्रेषित की जावें।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 7 जून, 2024

**का.आ. 1114.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ इण्डिया** के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **जयपुर** के पंचाट (128/2005) प्रकाशित करती है।

[स. एल-12012/100/2005- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 7th June, 2024

**S.O. 1114.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.128/2005) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/100/2005- IR(B-I)]

SALONI, Dy. Director

**अनुलग्नक****केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर**

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

**सी.जी.आई.टी. प्रकरण सं.— 128 / 2005****Reference No. L-12012/100/2005-IR (B-I)****Dated: 22.11.2005**

श्री भैरू लाल सालवी पुत्र श्री हीरा लाल सालवी, निवासी— 17, नारायण निवास, म्यूनिसिपल पार्क के पास, धोली बावडी, उदयपुर (राज.)।

.....प्रार्थी

**बनाम**

1. सहायक महाप्रबंधक, स्टेट बैंक ऑफ इण्डिया, उदयपुर रीजन, न्यू फतेहपुरा, उदयपुर।
2. चीफ मैनेजर, स्टेट बैंक ऑफ इण्डिया, शाखा शास्त्री सर्किल, उदयपुर।

.....अप्रार्थीगण/विपक्षी

उपस्थितः—

: श्री आर. सी. जैन, अभिभाषक प्रार्थी।

: श्री उदय शर्मा, अभिभाषक (श्री आर. के. जैन, अभिभाषक की ओर से) विपक्षीगण।

**: अधिनिर्णय :****दिनांक : 23.01.2024**

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 22.11.2005 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (डी) व 2A के अन्तर्गत प्रदत्त शक्तियों के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :—

**CGIT-128/05**

**“Whether the action of the management of S.B.I. Shastri Circle Udaipur, in terminating the services of Shri Bheru Lal Salvi, w.e.f. 25/04/2001 and not paying the equal wages for the equal work is justified? If not, what relief the workman is entitled to? ”**

2. दिनांक 17.05.2019 को इस अधिकरण द्वारा आदेश पारित करते हुये S.B.B.J. (स्टैट बैंक ऑफ बीकानेर एण्ड जयपुर) का विलय S.B.I. (स्टैट बैंक ऑफ इण्डिया) में हो जाने पर S.B.B.J. के स्थान पर S.B.I. (स्टैट बैंक ऑफ इण्डिया) को प्रत्यास्थापित करते हुये संशोधित शीर्षक प्रस्तुत करने का आदेश दिया गया। आदेश के अनुपालन में प्रार्थी द्वारा संशोधित वाद शीर्षक प्रस्तुत कर दिया गया।
3. प्रार्थी ने दिनांक 17.01.2006 को दावे का अभिकथन प्रस्तुत किया। जिसके संक्षिप्त कथन इस प्रकार हैं:-
4. प्रार्थी की प्रथम नियुक्ति 09.07.1994 को चौकीदार कम पियोन के पद पर विपक्षी सं. 2 के अधीन हुई। प्रार्थी ने दिनांक 25.04.2001 तक निरंतर कार्य किया तथा सेवामुक्त किये जाने की तिथि से एक वर्ष पूर्व की अवधि में 240 दिन से अधिक कार्य किया। प्रार्थी द्वारा किये जाने वाला कार्य स्थाई प्रकृति का था। सेवामुक्त किये जाने के पूर्व प्रार्थी को न तो कोई नोटिस दिया गया न ही नोटिस वेतन का भुगतान किया गया। अधिनियम की धारा 25 (F) के अन्तर्गत छंटनी प्रतिकर भी नहीं दिया गया। प्रार्थी से कनिष्ठ श्रमिकों को सेवामुक्त नहीं किया गया और सेवामुक्ति के बाद नये श्रमिकों को भी नियुक्त किया गया। प्रार्थी की सेवा समाप्ति अधिनियम की धारा 25 (F), (G), (H) का उल्लंघन है। अतः प्रार्थी को सेवा में निरंतरता एवं समस्त आर्थिक परिलाभों सहित सेवा में लिया जावे।
5. दिनांक 12.04.2006 को विपक्षीगण ने वादोत्तर में यह कहा कि प्रार्थी का दावा चलने योग्य नहीं है। विपक्षी बैंक ने प्रार्थी की कभी किसी प्रकार की नियुक्ति नहीं की और न ही सेवामुक्त किया। उभयपक्ष के बीच नियोजक और श्रमिक के संबंध नहीं हैं। विपक्षीगण ने अधिनियम के किसी प्रावधान का उल्लंघन नहीं किया। प्रार्थी ने केवल अनुबंध के अनुसार निश्चित कार्य किया है। अधिनियम के प्रावधान प्रार्थी को कोई अनुतोष दिलाये जाने में सहायक नहीं है। विपक्षी बैंक की नियुक्ति हेतु निर्धारित प्रक्रिया है। विपक्षी ने अपनी बैंक शाखा में जनरेटर लगवाने हेतु राजेश रिपेयरिंग वर्क्स से जनरेटर किराये पर लेकर शाखा में लगवाया था। प्रार्थी अनुबंध के आधार पर जनरेटर की देखभाल व चलाने का कार्य करता था। इसके अतिरिक्त विपक्षी बैंक की शास्त्री नगर, उदयपुर शाखा में साईकिल स्टैंड की देखभाल के लिये प्रार्थी को संविदा पर रखा गया था। इसके अतिरिक्त और कोई कार्य नहीं करवाया गया। इन कार्यों का भुगतान प्रार्थी ने बिना आपत्ति किये प्राप्त किया। प्रार्थी अन्यत्र रोजगार में है, और अपनी जीविका चला रहा है। प्रार्थी कोई अनुतोष पाने का अधिकारी नहीं है। अतः वाद निरस्त किया जावे।
6. प्रार्थी ने अपने साक्ष्य में स्वयं प्रार्थी भैरूलाल सालवी को परीक्षित किया। प्रलेखीय साक्ष्य में प्रदर्श **w.1** प्रलेख प्रदर्शित किया।
7. विपक्षीगण द्वारा अपने साक्ष्य में जी. एल. सालवी, प्रबंधक को परीक्षित किया तथा प्रलेखीय साक्ष्य में प्रदर्श **M-1** से प्रदर्श **M-47** तक प्रलेखों को प्रदर्शित किया।
8. दिनांक 26.12.2023 को उभयपक्ष के तर्क सुनने के दौरान उभयपक्ष की सहमति से औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय जोधपुर का अधिनिर्णय दिनांक 14.09.2004 अधिकरण द्वारा प्रदर्श **C-1** के रूप में प्रदर्शित किया गया।
9. दिनांक 02.01.2024 को मैंने उभयपक्ष के प्रतिनिधियों के शेष मौखिक तर्क सुने तथा साक्ष्य का परिशीलन किया।
10. प्रार्थी की और से अपने तर्कों के समर्थन में निम्नलिखित न्यायायिक दृष्टांत प्रस्तुत किये गये:-
  - (1) स्टैट बैंक ऑफ इण्डिया बनाम पूजा व अन्य 2022 (173) FLR 209 (हिमाचल प्रदेश उच्च न्यायालय)।
  - (2) स्टैट ऑफ राजस्थान बनाम हरीष चन्द्र शर्मा व अन्य 2006 (4) RLW 3028 (राज. उच्च न्यायालय)।
  - (3) साधूराम बनाम देहली ट्रॉन्सपोर्ट कोर्पोरेशन 1983 (47) FLR 326 (सुप्रीम कोर्ट)।
  - (4) ऐगज्युक्यूटिव इंजीनियर CPWD इंदौर बनाम मधुकर पुरुषोत्तम कोलबारकर 2000 (87) FLR 727 (सुप्रीम कोर्ट)।
  - (5) गौरीशंकर बनाम स्टैट ऑफ राजस्थान (2016) 1 SCC (L&S) 546.
  - (6) शिवनंदन शर्मा बनाम पंजाब नैशनल बैंक लि. 1955 (I) LLJ 688 (सुप्रीम कोर्ट)
  - (7) धरंगधरा कैमीकल्स वर्क्स लि. बनाम स्टैट ऑफ सौराष्ट्र (1957) LLJ 477 (सुप्रीम कोर्ट)।
  - (8) अजयपाल सिंह बनाम हरियाणा वेयर हॉउसिंग कोर्पोरेशन 2015 (145) FLR 425 (सुप्रीम कोर्ट)।

- (9) स्टैट ऑफ राजस्थान बनाम श्री महेन्द्र जोशी 2003 (1) WLC (47) (राजस्थान)।
  - (10) मैनेजर मै. मित्तल स्टील मेन्यु. कं. बनाम चौथाराम व अन्य 2005 (3) WLC 430 (राजस्थान)।
  - (11) डायरेक्टर फिशरीज टर्मिनल डिवीजन बनाम भीकू भाई मेघाजी भाई चावडा 2010 (1) LLN 48 (सुप्रीम कोर्ट)।
  - (12) मैनेजर मुस्लिम मुसाफिर खाना मोती डूंगरी जयपुर बनाम जहीर खान 2016 (151) FLR 995 (राजस्थान)।
  - (13) रामप्रसाद माली बनाम रीजनल ऑफीसर ए. एस. आई. सवाईमाधोपुर 2017 (2) WLC (राजस्थान) UC 637।
  - (14) राजस्थान एग्रीकल्चरल यूनिवर्सिटी बनाम इण्डस्ट्रीयल ट्रिब्यूनल एवं लेबर कोर्ट 2010 (124) FLR 285 (राजस्थान)।
  - (15) डिस्ट्रिक्ट ओपियम ऑफीसर, नारकोटिक्स डिपार्टमेंट बनाम सुरेश कुमार जीनगर 2023 (177) FLR 802 (राजस्थान)।
  - (16) डालमिया दादरी सीमेन्ट लि0 बनाम अवतार नारायण गुजराल 1962 FLR 219 (सुप्रीम कोर्ट)।
  - (17) S.D.O. लक्ष्मणगढ बनाम हरिओम शर्मा सिविल अपील नं. 1298/2023 (सुप्रीम कोर्ट) आदेश तिथि 20.02.2023।
11. विपक्षीगण की ओर से अपने तर्कों के समर्थन में निम्नांकित न्यायायिक दृष्टांत प्रस्तुत किये गये:-
- (1) सेक्रेटरी स्टैट ऑफ कर्नाटक बनाम उमा देवी AIR 2006 (सुप्रीम कोर्ट) 1806।
  - (2) विभूति शंकर पाण्डेय बनाम स्टैट ऑफ मध्य प्रदेश AIR 2023 (सुप्रीम कोर्ट) 832।
  - (3) BHEL बनाम अनिल व अन्य श्रज 2006 (10) (सुप्रीम कोर्ट) 297।
  - (4) रामगोपाल सैनी बनाम द जज लेबर कोर्ट नं. 2 जयपुर 2001 (1) WLC (राजस्थान) 592।
12. मैंने उभय पक्ष के तर्कों उपलब्ध साक्ष्य एवं न्यायिक दृष्टांतों में पारित विधि पर ध्यान पूर्वक विचार किया इस विवाद में निम्नांकित विचारणीय बिन्दु न्याय निर्णयन हेतु उत्पन्न हुये हैं। जिन पर विवेचित निर्णय पारित किया जा रहा है।
1. क्या प्रार्थी को चौकीदार कम पीयोन के पद पर 09.07.1994 को विपक्षी के अधीन नियुक्ति दी गई तथा 25.04.2001 को सेवा समाप्ति के पूर्ववर्ती एक केलेण्डर वर्ष में प्रार्थी ने 240 दिन से अधिक कार्य किया?  
.....प्रार्थी
  2. क्या प्रार्थी की सेवा समाप्ति की तिथि पर विपक्षी ने प्रार्थी से कनिष्ठतर श्रमिकों को सेवा में बनाये रखा एवं नये श्रमिकों को नियोजित किया?  
.....प्रार्थी
  3. क्या प्रार्थी की सेवा समाप्ति के पूर्व विपक्षीगण ने प्रार्थी को एक माह का पूर्व नोटिस या नोटिस वेतन तथा छंटनी प्रतिकर का भुगतान नहीं किया इस लिये प्रार्थी की छंटनी अवैध है?  
.....प्रार्थी
  4. क्या केन्द्र सरकार द्वारा संदर्भित यह विवाद विधि के अन्तर्गत चलने योग्य नहीं हैं?  
.....विपक्षी
  5. अनुतोष क्या हो?
13. उपर्युक्त विचारणीय बिन्दुओं पर विनिश्चय पारित करने से पूर्व यह उल्लेख किया जाना आवश्यक है कि केन्द्र सरकार द्वारा संदर्भित विवाद में विपक्षी बैंक द्वारा प्रार्थी को समान कार्य हेतु समान वेतन न दिये जाने संबंधी प्रश्न भी सेवा समापन के साथ समाविष्ट हैं। किंतु प्रार्थी ने न तो अपने अभिवचनों में और न ही अपने साक्ष्य में समान

कार्य का समतुल्य वेतन न दिये जाने का तथ्य वर्णित किया है। ऐसा प्रतीत होता है कि प्रदर्श **C- 1** अधिनिर्णय दिनांक 14.09.2004 (औद्योगिक विवाद अधिकरण जोधपुर द्वारा पारित) जिसमें नियमित चतुर्थ श्रेणी कर्मचारी के समान वेतन व अन्य सुविधाये न दिये जाने का बिन्दु विचारणीय था, के संबंध में उभयपक्ष के मध्य समझौता होने के कारण कोई विवाद शेष न रहने के आधार पर अधिनिर्णय पारित हो जाने पर, संभवतः इसी कारण प्रार्थी ने इस संबंध में दावे के अभिकथन में न तो अभिवचन में और न ही शपथ पत्र में कोई कथन किया। माननीय उच्चतम न्यायालय के निर्णय डालमिया दादरी सीमेन्ट लि० बनाम अवतार नारायण गुजराल तथा S.D.O. लक्ष्मणगढ बनाम हरिओम शर्मा में प्रतिपादित विधि के अन्तर्गत प्रदर्श **C- 1** अधिनिर्णय चूकि उभयपक्ष के मध्य गुणागुण के आधार पर पारित नहीं हुआ हैं, इस अधिनिर्णय को उभयपक्ष के संदर्भ में "पूर्व निर्णय" के रूप में ग्रहण नहीं किया जा सकता। उभयपक्ष के तर्कों, साक्ष्य व निर्णयज विधि पर विचार के उपरांत विचारणीय बिंदुओं पर विनिष्पन्न निम्नानुसार पारित किया जा रहा है।

#### 14. विचारणीय बिन्दु सं.-1

15. प्रार्थी भैरू लाल सालवी ने अपने साक्ष्य के शपथ पत्र में यह कहा है कि 09.07.1994 को उसकी प्रथम नियुक्ति विपक्षी बैंक में हुई थी तभी से वह बैंक में कार्यरत है। इसकी पुष्टि विपक्षी के शाखा प्रबंधक के पत्र दिनांक 06.04.2000 प्रदर्श **W- 1** से होती है। विपक्षी साक्षी जी. एल. सालवी ने अपने प्रतिपरीक्षण में यह स्वीकार किया है कि प्रदर्श **W- 1** उनकी बैंक की शाखा का पत्र है तथा इस पत्र में प्रार्थी को ठेके पर कार्य देने का उल्लेख नहीं है। इस स्वीकृत स्थिति में विपक्षी बैंक के शाखा प्रबंधक द्वारा लिखे गये पत्र दिनांक 06.04.2000 ( प्रदर्श **W- 1**) को किसी निष्कर्ष पर आने के उद्देश्य से आधार बनाया जाना न्यायोचित है। इस पत्र में विपक्षी ने यह स्वीकार किया है कि "श्री भैरू लाल सालवी विगत 6-7 वर्षों से साईकिल स्टैंड पर चौकीदार के रूप में दैनिक मजदूरी रु. 15/- के आधार पर कार्यरत है चौकीदार के रूप में इनका कार्य पूर्ण संतोषप्रद रहा हैं" उपयुक्त तथ्यात्मक स्वीकारोक्ति में विपक्षी द्वारा प्रस्तुत इस तथ्य का कोई उल्लेख नहीं है कि प्रार्थी को मै. राजेश रिपेयरिंग वर्क्स से अनुबंध के आधार पर जनरेटर सेट के रखरखाव एवं संचालन का कार्य करने हेतु 500/- रु. मासिक भुगतान किया जाता हो तथा इसके अतिरिक्त बैंक की शास्त्री नगर, उदयपुर शाखा में किराये पर लिये गये साईकिल स्टैंड की देखभाल के लिये प्रार्थी को सहमत राशि पर रखा गया हो। वरन इस पत्र में यह कहा गया है कि प्रार्थी को 15/- रु. दैनिक मजदूरी पर चौकीदार के रूप में रखा गया था और विगत 6-7 वर्षों से अर्थात् अप्रैल, 1994 से प्रार्थी का कार्य पूर्ण संतोषप्रद ही रहा है। प्रदर्श **C- 1** पत्र में यह उल्लेख भी नहीं है कि प्रार्थी को आवश्यकता के अनुरूप समय-समय पर कार्य करने के लिये बुलाया जाता रहा हो।
16. इस स्वीकारोक्ति के प्रकाश में प्रदर्श **M- 2** से प्रदर्श **M- 46** तक प्रार्थी को किये गये भुगतान संबंधी प्रार्थना पत्र एवं वाउचर्स का परिशीलन यह दर्शाता है कि प्रार्थी को यद्यपि 15/- रु. दैनिक मजदूरी पर साईकिल स्टैंड की चौकीदारी के लिये रखा गया था किंतु उसे भुगतान करने के समय उससे एक प्रार्थना पत्र लिखवाया जाता था जिसमें उसे कार्य को ठेके पर लिये जाने का तथ्य लिखवाया जाता था जबकि भुगतान वाउचर्स में निम्नानुसार स्पष्ट अंकन किया जाता रहा।
17. "Charges a/c (misc.) to the account of vehicle stand watchman labour charges to Bheru Lal" भुगतान वाउचर्स में "Labour Charges" शब्दावली का प्रयोग इस तथ्य का प्रमाण है कि भैरूलाल को किया गया भुगतान किसी अनुबंध या संविदा के स्थान पर न होकर श्रमिक द्वारा किये गये कार्य के प्रतिकर स्वरूप मजदूरी के भुगतान हेतु किया गया था। इस तथ्य की पुष्टि प्रदर्श **W- 1** विपक्षी के पत्र दिनांक 06.04.2000 से भी होती है। विपक्षी के साक्षी जी. एल. सालवी ने यह स्वीकार किया है कि प्रार्थी को साईकिल स्टैंड ठेके पर देने के संबंध में कोई लिखित दस्तावेज पेश नहीं किया है। प्रार्थी एवं बैंक के बीच साईकिल स्टैंड की निगरानी हेतु कोई **Contract** निष्पादित नहीं हुआ था। साक्षी यह भी कहता है कि प्रार्थी से टेलीग्राम भी भिजवाते थे तथा आवश्यकता होने पर अन्य कार्य भी लिया जाता था जिसमें डाक देना, सामानों की मरम्मत करवाना रिकार्ड रुम में वाउचर्स जमाना आदि शामिल है इस प्रकार यह स्पष्ट है कि प्रार्थी को साईकिल स्टैंड पर चौकीदारी का कार्य ठेके पर नहीं दिया गया वरन प्रार्थी को बैंक के विभिन्न कार्यों के संपादन हेतु 15/- रु. दैनिक वेतन पर वर्ष अप्रैल, 1994 से ही रखा गया था। तथा प्रार्थी से 25.04.2001 तक इसी प्रकार लगातार कार्य लिया जाता रहा। इस निष्कर्ष की पुष्टि प्रदर्श **W- 1** पत्र तथा प्रदर्श **M- 2** से प्रदर्श **M- 46** भुगतान संबंधी प्रलेखों से होती है।
18. माननीय सर्वोच्च न्यायालय ने अपने निर्णय शिवनंदन शर्मा बनाम पंजाब नेशनल बैंक लि. में यह मार्गदर्शन दिया है कि जब बैंक ने ट्रेजरर को किसी संविदा के अधीन नियुक्त किया हो तथा ऐसे ट्रेजरर द्वारा कार्य संपादन हेतु

अनुबंध के अन्तर्गत अन्य सहायक कर्मियों को नियुक्त किया हो तो ऐसे नियुक्त किये गये कर्मी चूकि बैंक के कार्य संपादन हेतु नियुक्त किये गये है, बैंक के ही कर्मचारी माने जायेंगे।

19. माननीय सर्वोच्च न्यायालय द्वारा निर्णय धरंगधरा कैमीकल्स वर्क्स लि. बनाम स्टैट ऑफ सौराष्ट्र में अधिनियम की धारा 2 के अन्तर्गत "कर्मकार" की परिभाषा पर प्रकाश डालते हुये यह कहा गया है कि श्रमिक को किसी उद्योग में कार्य करने हेतु नियोजित किया जाना उसके कर्मकार होने की आवश्यक शर्त है। चूकि प्रार्थी का विपक्षी के अधीन 6-7 वर्ष तक लगातार दैनिक वेतन भोगी के रूप में कार्यरत होना प्रमाणित हुआ हैं, माननीय राजस्थान उच्च न्यायालय के निर्णयों मैनेजर मुस्लिम मुसाफिर खाना मोती डूंगरी बनाम जहीर खान एवं राजस्थान एग्रीकल्चरल यूनिवर्सिटी बनाम इण्डियन ट्रिब्यूनल एवं लेबर कोर्ट में प्रतिपादित विधि के प्रकाश में अधिनियम की धारा 25 ठ के प्रावधानों का प्रयोजन अपेक्षित नहीं रहा है तथा प्रार्थी को एक कलेण्डर वर्ष में 240 दिन की सेवा पूर्ण करने का तथ्य पृथक ये प्रमाणित करना आवश्यक नहीं रहा है।

20. माननीय राजस्थान उच्च न्यायालय के निर्णय मैनेजर मै. मित्तल स्टील मेन्यु. कं. बनाम चौथाराम, रामप्रसाद माली बनाम रीजनल ऑफीसर ए. एस. आई. ऑफ इण्डिया सवाईमाधोपुर तथा माननीय सर्वोच्च न्यायालय के निर्णय डायरेक्टर फिशरीज टर्मीनल डिवीजन बनाम भीकू भाई मंगजी भाई चावडा में प्रतिपादित अधिमतों पर कोई विवेचन किया जाना उपयुक्त निष्कर्ष के आधार पर आवश्यक प्रतीत नहीं होता है। इस विवेचन के उपरांत यह बिन्दु प्रार्थी के पक्ष में निर्णीत किया जाता है।

### 21. विचारणीय बिन्दु सं.-2

22. प्रार्थी भैरू लाल सालवी ने अपने शपथ पत्र के पेरा 7, में यह कहा है कि विपक्षी के अधीन उसे सेवा मुक्त करते समय उससे कनिष्ठतर श्रमिक "भैरूलाल" कार्यरत था तथा पेरा सं. 8 में यह कहा है कि सेवामुक्ति के पश्चात जिन श्रमिकों को रखा गया उनके नाम रेखा कल्याण, सुगनी देवी, शंकर लाल एवं महीपाल है। किंतु प्रार्थी प्रतिपरीक्षा में यह कहता है कि उसने शपथ पत्र के पेरा सं. 7, जिस भैरूलाल का नाम उल्लेख किया है वह उसी का नाम है, अर्थात् प्रार्थी से कनिष्ठतर कोई अन्य श्रमिक के कार्यरत होने का उल्लेख प्रार्थी ने नहीं किया है। इस प्रकार यह प्रमाणित होता है कि उस समय प्रार्थी से कनिष्ठ कोई श्रमिक विपक्षी के अधीन कार्यरत नहीं था। इसी क्रम में प्रार्थी ने जिन व्यक्तियों को सेवामुक्ति के उपरांत कार्य पर रखना कहा है उन व्यक्तियों को विपक्षी द्वारा नियुक्त किये जाने के प्रमाण संबंधी कोई प्रलेख प्रस्तुत नहीं किया है और न ही विपक्षी से प्रस्तुत करवाये जाने का कोई निवेदन किया। विपक्षी के साक्षी जी. एल. सालवी ने अपने प्रतिपरीक्षण में यह कहा है कि रेखा कल्याण, सुगनी देवी, शंकर लाल एवं महीपाल को बैंक में नियुक्ति नहीं दी गई, इन्हें पार्टटाईम या कैजुअल रूप में रखा था या नहीं, उसकी जानकारी नहीं है। वह पुनः स्पष्ट करता है कि 25.04.2001 (प्रार्थी की सेवामुक्ति तिथि) के बाद इस शाखा में कोई पार्टटाईम या कैजुअल श्रमिक नहीं रखा गया। साक्ष्य की इस स्थिति में प्रार्थी यह प्रमाणित नहीं कर पाया है उसकी कथित सेवामुक्ति तिथि 25.04.2001 को प्रार्थी से कनिष्ठ किसी व्यक्ति को सेवा में ही रहने दिया हो एवं 25.04.2001 के उपरांत किसी अन्य व्यक्ति को समान कार्य हेतु किसी प्रकार नियोजित किया हो। इस स्थिति में प्रार्थी की और से प्रस्तुत निर्णय स्टैट ऑफ राजस्थान बनाम श्री महेन्द्र जोशी व अन्य में प्रतिपादित विधि प्रार्थी के पक्ष में सहायक प्रतीत नहीं हुई है। इस निष्कर्ष के उपरांत यह बिन्दु प्रार्थी के विरुद्ध निर्णीत किया जाता है।

### 23. विचारणीय बिन्दु सं.-3

24. प्रार्थी भैरू लाल सालवी ने अपने शपथ पत्र में यह कहा है कि 25.04.2001 को सेवामुक्ति किये जाने से पूर्व उसे कोई नोटिस अथवा नोटिस वेतन एवं छंटनी मुआवजे का भुगतान नहीं किया गया। विपक्षी द्वारा की गई प्रतिपरीक्षा में इस तथ्य का कोई खण्डन नहीं हो पाया है। विपक्षी के साक्षी जी. एल. सालवी द्वारा अपने शपथ पत्र में यह नहीं कहा है कि उन्होंने प्रार्थी को सेवा समाप्ति के पूर्व कोई नोटिस या नोटिस वेतन एवं छंटनी प्रतिकर का भुगतान किया हो। इस प्रकार यह तो स्पष्ट है कि प्रार्थी को सेवा समाप्ति के पूर्व विपक्षी द्वारा कोई नोटिस या नोटिस वेतन एवं छंटनी प्रतिकर का भुगतान न करते हुये अधिनियम की धारा 25 F के प्रावधानों का अनुपालन विपक्षी द्वारा नहीं किया गया। माननीय सर्वोच्च न्यायालय ने ऐग्युक्व्यूटिव इंजीनियर ब्लैक इंदौर बनाम मधुकर पुरुषोत्तम कोल बारकर के निर्णय में छंटनी की परिभाषा से संबंधित अधिमत पारित करते हुये कहा है कि नियुक्ति किसी निर्धारित अवधि के लिये किया जाना प्रमाणित न होने पर दैनिक वेतन भोगी श्रमिक की सेवा के समापन पर अधिनियम की धारा 2 (वव) (इइ) के प्रावधान प्रयोज्य नहीं होंगे। और ऐसा सेवा समापन अधिनियम की धारा 2 (वव) के अन्तर्गत छंटनी होगा।



25. माननीय सर्वोच्च न्यायालय ने ही गौरीशंकर बनाम स्टेट ऑफ राजस्थान के निर्णय में यह मार्गदर्शन दिया है कि श्रमिक की छंटनी किये जाने के पूर्व अधिनियम की धारा 25 F के प्रावधानों का अनुपालन आवश्यक है अन्यथा किया गया सेवा समापन अवैध होगा।
26. माननीय सर्वोच्च न्यायालय द्वारा अपने निर्णय अजयपाल सिंह बनाम हरियाणा वेयर हॉउसिंग कोर्पोरेशन में यह कहा है कि अधिनियम की धारा 25 F के किसी भी भाग का उल्लंघन होने पर नियोजक स्वयं के कृत्य को यह कह कर न्यायोचित नहीं ठहरा सकता कि श्रमिक की प्रारम्भिक नियुक्ति संविधान के अनुच्छेद 14 एवं 16 के विपरीत है।
27. माननीय राजस्थान उच्च न्यायालय ने अपने निर्णय डिस्ट्रिक्ट ऑफीसर नारकोटिक्स बनाम सुरेश कुमार जीनगर में यह कहा है कि सेवा मुक्ति के पूर्व अधिनियम की धारा 25 F के प्रावधानों का पालन न किये जाने पर सेवामुक्ति अवैध होगी।
28. विचारणीय बिन्दु सं.-1 पर प्राप्त निष्कर्ष के आधार पर यह प्रमाणित हुआ है कि प्रार्थी अप्रैल, 1994 से ही विपक्षी के अधीन दैनिक वेतन भोगी चौकीदार के पर पर नियुक्त किया गया था और उसने 25.04.2001 तक लगातार विपक्षीगण के अधीन कार्य किया। इस स्थिति में प्रार्थी की सेवा समाप्ति के पूर्व विपक्षी द्वारा अधिनियम की धारा 25 F के अन्तर्गत नोटिस या नोटिस वेतन का भुगतान न किये जाने और साथ ही छंटनी प्रतिकर भी न दिये जाने के कारण विपक्षी द्वारा की गई सेवा समाप्ति अवैध छंटनी प्रमाणित होती है। अतः यह बिन्दु प्रार्थी के पक्ष में निर्णीत किया जाता है।

#### 29. विचारणीय बिन्दु सं.-4

30. विपक्षीगण ने अपने अभिवचनों में यह कहा है कि प्रार्थी द्वारा प्रस्तुत क्लेम सरकार द्वारा प्रेषित रेफरेन्स विधि के अनुसार चलने योग्य नहीं है तथा प्रार्थी द्वारा विपक्षी के समक्ष कोई मॉग न रखे जाने के कारण रेफरेन्स अवैध है। इस संदर्भ में सुसंगत विधि का परिशीलन करने पर यह प्रकट होता है कि यह विवाद समुचित सरकार (केन्द्रीय सरकार) द्वारा अधिनियम की धारा 10 (1) (क) के प्रावधान के अन्तर्गत इस अधिकरण को प्रेषित किया गया है। इस स्थिति में इस अधिकरण को समुचित सरकार द्वारा पारित किये गये संदर्भ आदेश की वैधता के परीक्षण का क्षेत्राधिकार प्राप्त नहीं है। माननीय राजस्थान उच्च न्यायालय ने अपने निर्णय स्टेट ऑफ राजस्थान बनाम हरीश चन्द्र शर्मा में यह कहा है कि औद्योगिक अधिकरण की अधिकारता रेफरेन्स के निबधनों तक ही सीमित है। अधिकरण के समक्ष रेफरेन्स आदेश को चुनौती नहीं दी जा सकती है। आरम्भिक अवस्था में इसे मात्र उच्च न्यायालय के समक्ष याचिका प्रस्तुत कर चुनौती दी जा सकती है। इस अधिमत के प्रकाश में यह स्पष्ट है कि केन्द्र सरकार द्वारा प्रेषित विवाद को संदर्भित किये जाने के संबंध में इस अधिकरण के समक्ष कोई चुनौती नहीं दी जा सकती। अतः यह बिन्दु विपक्षी के विरुद्ध निर्णीत किया जाता है।

#### 31. अनुतोष:-

32. विचारणीय बिन्दु सं. 1 के विनिश्चय से यह निष्कर्ष प्राप्त हुआ है कि दिनांक 25.04.2001 को विपक्षीगण द्वारा की गई प्रार्थी की सेवा समाप्ति अधिनियम की धारा 25 F के प्रावधानों का अनुपालन न किये जाने के कारण अवैध छंटनी है। उल्लेखनीय है कि प्रार्थी की यह सेवा समाप्ति विपक्षीगण के अनुचित श्रमाभ्यास या दुराशय पूर्वक की गई कार्यवाही प्रमाणित नहीं हुई है। प्रार्थी से कनिष्ठ किसी व्यक्ति को न तो सेवा के समय कार्य पर रखा गया न ही सेवा समाप्ति के उपरांत अन्य व्यक्तियों को समान कार्य हेतु सेवा में नियोजित किया जाना प्रमाणित हुआ है। प्रार्थी ने सेवा में निरंतरता एवं विगत वेतन सहित पुनः नियुक्त किये जाने का निवेदन किया है। प्रार्थी ने स्थाई नियुक्ति अथवा सेवा में नियमितीकरण की मॉग नहीं की है।
33. प्रार्थी ने अपने साक्ष्य के दौरान यह कहा है कि उसे सेवामुक्त किये जाने के बाद से वह बिल्कुल बेरोजगार है। प्रतिपरीक्षा में भी उसने यह कहा है कि उसने नौकरी हेतु प्रयास किया किंतु नौकरी नहीं मिली। उसकी पत्नी घरेलू काम करने जाती है उसमें वह थोड़ी बहुत मदद करता है। इसके विपरीत विपक्षीगण ने अपने वादोत्तर में यह तो कहा है कि प्रार्थी अन्यत्र रोजगार में है तथा अपनी जीविका चला रहा है। किंतु इन अभिवचनों को किसी प्रकार साक्ष्य से प्रमाणित नहीं किया है। विपक्षी साक्षी जी. एल. सालवी अपने सम्पूर्ण परीक्षण में यह नहीं कहते कि प्रार्थी कहीं पर लाभार्थ नियोजित है तथा वह अपनी जीविका चलाने में सक्षम रहा है। इस स्थिति में प्रार्थी के अभिवचन एवं साक्ष्य किसी विखंडन के अभाव में प्रमाणित होते हैं। विपक्षीगण उन पर आरोपित इस सिद्धीभार का उन्मोचन नहीं कर सके हैं कि प्रार्थी सेवा समाप्ति के उपरांत किसी लाभप्रद नियोजन में रहा है।

34. प्रार्थी ने स्वयं को दैनिक वेतन भोगी के रूप में विपक्षी के अधीन 6-7 वर्ष की अवधि तक कार्यरत रहना कहा है। विपक्षी ने भी स्वयं के पत्र **W 1** में इस तथ्य की स्वीकारोक्ति करते हुये पुष्ट किया है। किंतु दैनिक वेतन भोगी श्रमिक को बैंक द्वारा किसी विहित चयन प्रक्रिया के अन्तर्गत स्थाई पद के विरुद्ध नियमित रूप से नियुक्त नहीं किया गया। विपक्षीगण ने इसी आधार पर प्रार्थी को विधिवत नियुक्त श्रमिक न मानते हुये छंटनी के पूर्व अपनाई जाने वाली प्रक्रिया जो अधिनियम की धारा 25 F के अन्तर्गत अपेक्षित थी, का अनुपालन नहीं किया।
35. स्टेट बैंक ऑफ इण्डिया बनाम पूजा के निर्णय में माननीय हिमाचल प्रदर्श उच्च न्यायालय ने नियोजक बैंक द्वारा प्रस्तुत तथ्यों को मिथ्या प्रमाणित होने पर अनुचित श्रमाभ्यास माना है तथा श्रमिक को विगत वेतन परिलाभ सहित सेवा में पुनः लेने का आदेश दिया है। किंतु, इस विवाद में विपक्षीगण के पत्र **W- 1** में वर्णित तथ्यों को विचारित करते हुये, जिसमें विपक्षी शाखा प्रबंधक ने प्रार्थी की 6-7 वर्ष की सन्तुष्टिप्रद सेवा के आधार पर 1/3 वेतन पर नियुक्त किये जाने की अनुशंसा की है, विपक्षी का व्यवहार अनुचित श्रमाभ्यास नहीं माना जा सकता है।
36. माननीय उच्चतम न्यायालय ने अपने निर्णय गौरीशंकर बनाम स्टेट ऑफ राजस्थान में श्रमिक को अवैध सेवा समापन के उपरांत सेवा में प्रत्यास्थापन एवं क्षतिपूर्ति के स्थान पर मात्र प्रतिकर दिलाये जाने को अनुचित अवश्य ठहराया है। किंतु इस निर्णय के तथ्य हस्तगत विवाद के तथ्यों से भिन्न प्रकट हुये हैं। उपयुक्त निर्णय में श्रमिक को स्थाई एवं स्वीकृत पद के विरुद्ध नियोजन में रखना दर्शाया गया है जबकि इस विवाद में स्वीकृत रूप से प्रार्थी को 15/- रु. दैनिक मजदूरी पर अस्थाई रूप से कार्य पर रखना प्रमाणित हुआ है। उल्लेखनीय यह भी है कि प्रार्थी की नियुक्ति किसी स्थाई एवं रिक्त पद के विरुद्ध निर्धारित चयन प्रक्रिया के अनुसरण में नहीं की गई। विपक्षीगण की और से सेक्रेटरी स्टेट ऑफ कर्नाटक बनाम उमा देवी एवं विभूति शंकर पाण्डेय बनाम स्टेट ऑफ मध्य प्रदेश के निर्णयों में माननीय उच्चतम न्यायालय द्वारा पारित अधिमत का अवलम्ब लिया गया है। इन निर्णयों में माननीय उच्चतम न्यायालय ने यह कहा है कि जब तक नियुक्ति सुसंगत नियमों एवं विहित चयन प्रक्रिया के अधीन न की गई हो, नियुक्त व्यक्ति को कोई अधिकार प्रदान नहीं करती है। जब नियुक्ति दैनिक वेतन पर आकस्मिक श्रमिक के रूप में की गई हो तो ऐसी नियुक्ति उसकी सततता के भंग होने पर समाप्त हो जाती है। एक अस्थाई कर्मचारी, सेवा अवधि के समापन पर उसे स्थाई किये जाने का दावा नहीं कर सकता है। उल्लेखनीय है कि प्रार्थी द्वारा इस विवाद में उसे विपक्षीगण की सेवा में नियमित रूप से नियुक्त किये जाने हेतु अथवा स्थाई नियुक्ति दिये जाने का अनुतोष नहीं माँगा गया है।
37. अब यह बिन्दु विचारणीय है कि प्रार्थी की सेवा समाप्ति के "अवैध छंटनी" प्रमाणित होने के उपरांत उसे सेवा में विगत वेतन सहित प्रत्यास्थापित किया जाना चाहिये अथवा उसे एक मुष्ट प्रतिकर विपक्षीगण से दिलवाये जाने पर न्यायहित साधन हो सकेगा।
38. इस विवाद के तथ्यों के अनुसार प्रार्थी को वर्ष 1994 में 15/- रु. प्रतिदिन दैनिक वेतन पर अस्थाई रूप से नियोजित किया गया तथा लगभग उसने 6 वर्ष 9 माह तक विपक्षीगण के अधीन कार्य किया। विपक्षीगण द्वारा यह नियुक्ति अस्थाई दैनिक वेतन भोगी के रूप में की गई थी तथा नियुक्ति के पूर्व विपक्षी बैंक के प्रचलित नियमों के अधीन किसी विहित चयन प्रक्रिया का अनुसरण भी नहीं किया गया। यह नियुक्ति किसी रिक्त एवं स्थाई पद के विरुद्ध किया जाना भी प्रमाणित नहीं है। इस परिदृश्य में यदि प्रार्थी को साईकिल स्टैण्ड के चौकीदार के पद पर पुनः सेवा में लिये जाने का निर्देश विपक्षी को दे भी दिया जाता है तो ये संभावना निर्मूल नहीं होगी कि विपक्षी द्वारा अधिनियम के प्रावधानों का अनुपालन करते हुये प्रार्थी को पुनः सेवामुक्त कर दिया जावे।
39. माननीय उच्चतम न्यायालय ने निर्णयों की एक श्रृंखला में यह मार्गदर्शन दिया है कि सेवा समाप्ति को धारा 25 F अधिनियम के अन्तर्गत प्रक्रिया के उल्लघन के आधार पर अवैध घोषित किये जाने पर विगत वेतन सहित सेवा में पुनः पदस्थापन यंत्रवत/ स्वतः किया जाना अनिवार्य नहीं है। प्रत्येक प्रकरण के तथ्यों व परिस्थितियों पर विचार के पश्चात श्रमिक को सेवा में पुनः पदस्थापन के बदले समुचित एकमुष्ट प्रतिकर दिलाया जाना उचित है। यह अधिमत माननीय उच्चतम न्यायालय ने जसवीर सिंह बनाम स्टेट ऑफ हरियाणा (2009) 15 SCC 327 जयपुर विकास प्राधिकरण बनाम राम सहाय (2006) 11 SCC 684 एवं भारत संचार निगम लि. बनाम भूरुमल (2014) 7 SCC 177 (इस अधिकरण द्वारा उद्धृत) में पारित निर्णयों में माननीय उच्चतम न्यायालय ने पारित किया है।
40. इस तथ्यात्मक परिदृश्य में चूकिं प्रार्थी को एक अस्थाई दैनिक वेतन भोगी के रूप में आज से लगभग 22 वर्ष पूर्व सेवामुक्त कर दिया गया तथा उसकी नियुक्ति न तो रिक्त एवं स्थाई पद के विरुद्ध थी न ही उसे विहित चयन प्रक्रिया के अन्तर्गत नियुक्त किया गया, मेरे अधिमत से प्रार्थी को सेवा में पुनः पदस्थापित किये जाने एवं विगत वेतन दिलवाये जाने के स्थान पर समुचित एकमुष्ट प्रतिकर दिलाये जाने से न्यायहित साधन हो सकेगा।

41. अतः विपक्षीगण द्वारा दिनांक 25.04.2001 को की गई प्रार्थी की सेवा समाप्ति अधिनियम की धारा 25 F के प्रावधानों के विपरीत किया जाना प्रमाणित होने से सेवा समाप्ति को अवैध घोषित किया जाता है। इस अवैध सेवा समाप्ति के फल-स्वरूप विपक्षीगण प्रार्थी को एकमुश्त 300,000/- (अक्षरे तीन लाख रू.) प्रतिकर राशि दो माह में भुगतान करेंगे। विहित अवधि में भुगतान न होने पर प्रार्थी इस राशि पर 9 प्रतिशत वार्षिक ब्याजदर से ब्याज भी प्राप्त करने का अधिकारी होगा।
42. केन्द्र सरकार द्वारा संदर्भित विवाद को इसी प्रकार न्याय निर्णीत किया जाता है।
43. अधिनिर्णय की प्रतिलिपि समुचित सरकार को अधिनियम, की धारा 17 (1) के अंतर्गत प्रकाशनार्थ प्रेषित की जावें।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 7 जून, 2024

**का.आ. 1115.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर** के पंचाट (एलसी/आर/59/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को **06/06/2024** को प्राप्त हुआ था।

[सं.एल. 22012/387/99-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 7th June, 2024

**S.O. 1115.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**LC/R/59/2000**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **S.E.C.L.** and their workmen, received by the Central Government on **06/06/2024**

[No. L-22012/387/99 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

## ANNEXURE

### THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/59/2000**

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Shivdas S/o. Manglu

Village Pamari-1, Tah : Anooppur,

Distt.- Shahdol Now Anooppur (MP)

Deceased & Represented by

Legal Representatives

Workman

Versus

The Sub Area Manager

Bhadra Sub Area, South Eastern Coalfields Ltd.,

PO: Bhadra, Distt.- Shahdol (MP)

Management

**(J U D G E M E N T)****(Passed on this 8<sup>th</sup> day of May 2024)**

As per letter dated 10/02/2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of Industrial Disputes Act, 1947 as per Notification No. L-22012/387/99/IR(CM-II) dt. 10/02/2000. The dispute under reference relates to:

***“Whether the action of the Sub-Area Manager, Bhadra Sub-Area of SECL, PO: Bhadra, Distt. Shahdol (MP) in terminating the services in respect of Sh. Shivdas S/o. Manglu, Ex- Loader, Harad Colliery w.e.f. 29.01.1997 is legal and justified ? If not, to what relief the workman is entitled ? ”***

After registering a case on the basis of the reference, notices were sent to the parties and were served. Parties appeared and file their respective Statement of Claims and Defense.

According to the workman union, the workman Shivdas S/o. Manglu was employed as Loader by management and was posted in Harad Mines. He was issued a charge sheet on 29.09.1995 which he replied vide his letter dated 10.10.1995. The management conducted an enquiry against him and he was removed from service vide order of management dated 28/1-01/02/1997.

According to the workman union, a departmental enquiry was conducted by management against all the principles of natural justice and against the rules. The Enquiry Officer wrongly held the charges proved against the workman. The Disciplinary Authority wrongly accepted the enquiry report and passed punishment disproportionate to the charge.

Management has rebutted the allegations with a case that enquiry was rightly conducted, charges were rightly held proved and punishment is also proportionate to the charges.

Following issues were framed on the basis of pleadings by my learned Predecessor vide his order dated 17.02.2006.

1. ***Whether the departmental enquiry conducted by management is just, legal and proper ? If not, whether the management may be permitted to lead evidence for proving misconduct of workman ?***
2. ***Whether the workman is entitled to any relief ?***

On the basis of the evidence, the issue no.-1 was decided as preliminary issue in favour of workman holding the departmental enquiry not legal and improper vide order dated 12.12.2012. This order is part of this Award.

Thereafter, my learned Predecessor framed following additional issues vide his order dated 25.06.2013 holding that the other issues were not properly framed:-

- 1) ***Whether the misconduct alleged against workman is prove from evidence in enquiry proceedings or findings of Enquiry Officer are perverse.***
- 2) ***Whether the punishment of termination of service of the workman is proper ?***

Incidentally, my learned Predecessor observed in the order dated 25.06.2013 that the departmental enquiry has been found proper and legal. His this observation is against record. Order dated 12.12.2012 shows that the departmental enquiry was held not legal and proper, hence was set aside. Hence, the issues framed by my learned Predecessor vide his order dated 25.06.2013 are being rephrased as follows and order dated 25.06.2013 stands amended accordingly:-

- 1) ***Whether management has successfully proved the charges from evidence before this Tribunal ?***
- 2) ***Whether the workman is entitled to any relief ?***

Management was given opportunity to lead evidence on the charges they examined Ishwardeen and Hari Singh on oath in support of the charges, who have been cross examined by workman side. They also filed affidavits of their witnesses Devesh Kumar and Rajkumar Sharma as their examination in chief. Firstly, opportunity of cross examination of these two witnesses by workman side was closed. The workman side preferred M.P. No.- 3562/2019 before Hon'ble High Court of M.P. at Jabalpur which was decided by a Single Bench of Hon'ble High Court and the workman union was given one more opportunity to cross examined these two management witnesses. Under the order of Hon'ble High Court, these two witnesses also were cross examined on behalf of the workman union. Management has filed the charge sheet, reply of charge sheet, punishment order and original enquiry papers, which are Ex. M/1 to M/4. Management also filed and proved the land record, book first page, photocopy of Electoral Role and electricity connection photocopy.

The workman side did not file evidence of any witness.

It requires to be mentioned here that during pendency of the proceedings, the workman Shivdas died and hence his legal representatives were brought on record.

I have heard argument of learned Counsel for workman. None was present from management. The workman has filed written arguments which are part of record, no written argument has been filed by management. I have gone through the record also.

**Additional Issue No.-1:-**

The charges against the workman were as follows:-

- 26.09:-** Furnishing wrong information with respect to name, age, father's name, qualification etc. with respect to employment.
- 26.01:-** Knowingly doing an act of theft, deceit or dishonest act with relation to the business or property of the employer.

The settled law is that the standard of proof required to prove a charge during departmental enquiry and in criminal trial is different. In the former, charge is to be proved to the extent of preponderance whereas in the later, charge is to be proved beyond reasonable doubt.

*Scope of disciplinary proceedings and scope of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different. Ref. T.N.C.S. Corpn. Ltd. vs. K. Meerabai, (2006) 2 SCC 255*

*Standard of proof in a departmental enquiry which is quasicriminal/quasi-judicial in nature: Disciplinary proceedings, however, being quasi-criminal in nature, **there should be some evidence to prove the charge.** Although the charges in a departmental proceedings are not required to be proved like a criminal trial i.e. beyond all reasonable doubts, we cannot lose sight of the fact that the enquiry officer performs a quasijudicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. Ref: (i) **Nirmala J. Jhala Vs. State of Gujarat & Another, AIR 2013 SC 1513 (paras 10, 11, 12 & 13).** (ii) **M.V. Bijlani Vs. Union of India, (2006) 5 SCC 88 (Para 25)***

*In the cases of (i) **NOIDA Entrepreneurs Association Vs NOIDA & others, AIR 2007 SC 1161 (i4i) State Bank of India Vs. R.B. Sharma, (2004) 7 SCC 27 (iii) Kendriya Vidyalaya Sangathan Vs. T. Srinivas, (2004) 7 SCC 442 (iv) Depot Manager, APSRTC Vs. Mohd. Yousuf Miya, (1997) 2 SCC 699 (v) Captain M. Paul Anthony Vs. Bharat Gold Mines Limited (1999) 3 SCC 679 and (vi) State of Rajasthan Vs. B.K. Meena, (1996) 6 SCC 417 (vi) Pratap Singh Vs. State of Punjab, AIR 1964 SC 72 (vii) Jang Bahadur Singh Vs. Baij Nath, AIR 1969 SC 30,** it has been laid down by the Hon'ble Supreme Court that "the purpose of departmental enquiry and of prosecution are two different and distinct aspects. Departmental Enquiry is to maintain discipline in the service and efficiency of public service. Crime is an act of commission in violation of law or of omission of public duty. The enquiry in a departmental proceeding relates to the conduct or breach of duty by the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. It is the settled legal position that the strict standard of proof or applicability of the Evidence Act stands excluded in a departmental proceeding. Criminal Proceedings and the departmental proceeding under enquiry can go on simultaneously."*

*In the case of **T.N.C.S. Corporation Ltd. Vs. K. Meerabai, (2006) 2 SCC 255,** it has been held by the Hon'ble Supreme Court that the scopes of the disciplinary proceedings and of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different.*

*In the cases of **Mohd. Saleem Siddiqui Vs. State of UP & others, (2011) 2 UPLBEC 1575 (Allahabad High Court) and Ajeet Kumar Naag Vs. General Manager Indian Oil Corporation Ltd. Haldia, JT 2005 (8) SC 425,** the distinction between departmental enquiry and criminal proceedings has been drawn as under: "The two proceedings i.e. criminal and departmental are entirely different. They operate in different fields and have different objectives. The object of criminal proceedings is to inflict appropriate punishment on offender and the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance service rules the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of accused beyond reasonable doubts, he cannot be convicted by a court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of preponderance of probability. Procedure with respect to standard of proof in criminal case and departmental enquiry are different. In the case of departmental enquiry the technical rules of evidence have no application and the doctrine of "proof beyond doubt" has also no application in the departmental enquiry. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society or for breach of which law has provided that the offender shall make*

*satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. There would be no bar to proceed simultaneously with departmental enquiry and trial of criminal case. "*

In the case in hand, it comes out from perusal of record that the charge against the workman was that in fact, he was Chhotelal S/o. Sandhu who any how got the employment registration card of Shivdas S/o. Manglu and fraudulently got employment by impersonating himself to be Shivdas S/o. Manglu. Management has examined Ishwardeen who is S/o. Shivdas he stated that his father had got employment with the management but he did not join. Chhotelal, somehow got the appointment letter and other papers of Shivdas and joined the service of the management by impersonating himself to be Shivdas whereas in fact he was Chhotelal S/o. Sandhu. This Chhotelal was his neighbor. His father made a complaint before the management. This witness has filed the land record book and Electoral Rolls as well is a receipt issued by Electricity Department and has proved them as Ex. M/5 to M/7. In his cross examination, he states that he has 3 sisters also now married, hence their names are not in the Electoral Rolls. Also states that his father had told him that Chhotelal got the papers of father of this witness i.e. Shivdas S/o. Manglu and used these documents to get a employment.

The next witness Hari Singh examined by management is co-villager. He has corroborated the statement of witness Ishwardeen s/o. Real Shivdas. Workman has preferred not to cross examined this witness. This witness has filed and proved death certificate of Shivdas S/o. Manglu issued by him under his signature and seal in capacity of the Pradhan of the village. According to this certificate, Shivdas S/o. Manglu died on 26.04.2007. The third management witness is Devesh Kumar who was Personnel Assistant in the company at the time of filing affidavit. This witness states that during the preliminary enquiry conducted by Shri D. Chakarawarthy, the workman had given in writing under his signature on 08.09.1995 wherein he stated that he was in fact Chhotelal. This witness further stated that he had recorded this statement of the workman. In his cross examination he states that the statement was recorded with reference to a departmental preliminary enquiry conducted by Shri D. Chakarawarthy Manager Personnel on the basis of complaint made to the management in this respect. This witness admits that his statement was not recorded during departmental enquiry.

The fourth witness of management is Raj Kumar Sharma manager personnel who stated that one Shivdas S/o. Manglu was selected for the post of Piece Rated Loader in 1974 through employment exchange. Chhotelal s/o. Sandhu of same village got himself appointed personating for himself to be Shivdas S/o. Manglu. A complaint was received by management and on preliminary enquiry this fact was found correct. The workman was issued a charge sheet and departmental enquiry was conducted. This witness further states act during preliminary enquiry he had visited the village on 28.11.2015 and 07.03.2016 and met Harisingh, the Pradhan of the village and Deepak the grandson of real Shivdas. They had corroborated the allegations in the complaint in their statements before him. In his cross examination he has stated that the person named Deepak was summoned by the Sarpanch in the Panchayat Office, he was about 20-25 years at that time. This Deepak had told him that his father's name is Ishwardeen who is the son of the real Shivdas. He further states that he had visited the village as directed by management.

The workman has file his affidavit under the name Shivdas S/o. Manglu and has stated in this his affidavit that he is an illiterate person the management got his thumb impression on a blank paper on the pretext of resuming his duty. In his cross examine, he states that he has no brother or sister and he does not remember the time of death of his parent, he denies that he is in fact Chhotelal S/o. Sandhu and states that he is the only person named Shivdas in his village. He further states that Shri Chakarawarthy got it his thumb impression on blank paper by telling him that it was necessary was resuming his duty. He admits that he never complained of this fact.

Next witness examined by the workman is Keshav Sahu who states that he is the Vice Pradhan of the village. The applicant workman is the real Shivdas. He further states that he is co-villager of Shivdas who has no brother or sister and that there is no other person name Shivdas in his village.

From a comparative analysis of the statements of the witnesses produced from the both the sides, the witnesses of management appear more reliable particularly in the light of recorded confession of the workman where he admitted that in fact he was Chhotelal S/o. Sandhu who had got the employment papers of Shivdas S/o. Manglu and got employment impersonating himself to be Shivdas S/o. Manglu.

Hence, in the light of above discussion, the charge against the workman under Clause – 26.09 referred above, is held proved and issue no.-1 is answered accordingly.

#### **Issue No.-2:-**

In the light of findings recorded above, when the initial appointment was result of fraud and deceit, termination of services of the applicant cannot be held unjustified in law or fact.

Hon'ble Apex Court in *B.C. Chaturvedi v. Union of India*, (1995) 6 SCC 749 while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

***"The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment***

*imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof."*

In *DG, RPF vs. Sai Babu (2003) 4 SCC 331*, Hon'ble Apex Court has observed that:

*"6..... Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department/establishment which the delinquent person concerned works."*

In *United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364* Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

*"11. The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision."*

*12. To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof."*

In *Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257* Hon'ble Supreme Court reiterated the legal position as follows:

*"8. The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."*

In *State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580* Hon'ble Supreme Court stated that:

*"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review."*

Hon'ble Apex Court in *Administrator, Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101* has observed that

*"The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts."*

This extract is taken from *State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya, (2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721 : 2011 SCC OnLine SC 416* at page 587

*7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in*



*departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44] , Union of India v. G. Ganayutham [(1997) 7 SCC 463 : 1997 SCC (L&S) 1806] , Bank of India v. Degala Suryanarayana [(1999) 5 SCC 762 : 1999 SCC (L&S) 1036] and High Court of Judicature at Bombay v. Shashikant S. Patil [(2000) 1 SCC 416 : 2000 SCC (L&S) 144] .)*

In *Air India Corporation Bombay vs. V.A. Ravellow* 1972 (25) FLR 319 (SC) it has been observed that:

*“Once the employer has lost the confidence in the employee and the bona fide loss of confidence is affirmed, the order of punishment must be considered to be immune from challenge, for the reason that discharging the office of trust and confidence requires absolute integrity, and in a case of loss of confidence, reinstatement cannot be directed.”*

In *Knhaiyalal Agarwal and others vs. Factory Manager, Gwalior Sugar Co. Ltd.* AIR 2001 SC 3645 Hon'ble Apex Court laid down the test for loss of confidence to find out as to whether there was bona fide loss of confidence in the employee, observing that:

*“Loss of confidence cannot be subjective, based upon the mind of the management. Objective facts which would lead to a definite inference of apprehension in the mind of the management, regarding trust worthiness or reliability of the employee, must be alleged and proved.”*

In the case in hand management has successfully proved the charges as mentioned above. These charges are punishable with major punishment including dismissal, termination or removal. Gaining employment on false particulars is an act of moral turpitude. Considering the nature of charges in the light of above discussion and settled principles on this point the punishment of his dismissal from service cannot be held excessive to the charge proved.

**On the basis of above discussion the punishment is held not disproportionate to the charge** and the applicant is held entitled to no relief. Issue no.-2 is answered accordingly.

Accordingly, the Reference is answered as follows :-

#### AWARD

**Holding the action on the part of management of Sub-Area Manager, Bhadra Sub-Area of SECL, PO Bhadra, District Shahdol (MP) in terminating the services of Shri Shivdas S/o. Manglu, Ex Loader, Harad Colliery w.e.f. 29.01.1997 legal and justified, the workman is entitled to no relief.**

**DATE:- 08/05/2024**

P .K .SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 जून, 2024

**का.आ. 1116.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर/39/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[सं. एल. 22012/12/2016-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 7th June, 2024

**S.O. 1116.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC/R/39/2016) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 06/06/2024

[No. L-22012/12/2016- IR (CM-II)]

MANIKANDAN. N, Dy. Director



## ANNEXURE

## THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/39/2016

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary

Rashtriya Colliery Workers Federation

Office Chirimiri, Distt.- Korea (CG)

Workman

Vs

The General Manager

Chirimiri Area of SECL

PO: West Chirimiri, Distt.-Korea (CG)

Management

## (JUDGEMENT)

(Passed on this 15<sup>th</sup> day of May-2024)

As per letter dated 26/04/2016 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L-22012/12/2016 IR (CM-II) dt. 26/04/2016. The dispute under reference relates to:

***"A. Whether, the action on the part of General Manager of Chirimiri Colliery in not paying attention towards the wrongful entry in the date of birth in case of Shri Biswajit Pandey, Pump Khalasi, Category-IV of Civil Section of Kurasia, Sub Area of Chirimiri Colliery and later on not rectified the actual date of birth who is going to be superannuated on 27.06.2016 is appropriate and justified ? If not, what relief and action the workman concerned as espoused by the General Secretary, Rashtriya Colliery Workers Federation, Chirimiri, Distt.- Korea (CG) is entitled to ?***

***B. Whether in the conciliation proceedings the management serving notice to go on superannuation on 27.06.2016 in respect of Shri Biswajit Pandey, Pump Khalasi, Category-IV is violative of Section 33(1) of the I.D. Act as pointed out by Union Representative ? If not, what relief the concerned workman in the dispute is entitled to ?"***

After registering a case on the basis of the reference, notices were sent to the parties and were served. Parties appeared and filed their respective statements of claim and defense.

The dispute in the reference involves about the date of birth of the workman Biswajit Pandey who was appointed by management as its employee. The workman claims his date of birth to be 27.06.1966 whereas according to management his date of birth was recorded 27.06.1956 in their records. The management served a superannuation notice to the workman informing him that he was to superannuate on 27.06.2016 on the basis of his date of birth 27.06.1956. The workman filed a Writ Petition(s) No.-2302/2013 which was disposed by Hon'ble High Court of C.G. vide order dated 07.08.2013 and the management was directed to make necessary an enquiry in the matter and decide the issue with regard to correct date of birth of the workman in accordance with their own instructions and policy in the matter of determination of age contained in Implementation Instructions 76 (in short I.I. 76) as early as possible. Pursuant to this order an Age Determination Committee was constituted by management and the matter was referred to the Committee to decide the issue. The Committee, after considering both the sides submitted its report dated 03.02.2014 holding his date of birth 27.07.1956 as recorded with the management as his correct date of birth.

The workman has challenged this report of Age Determination Committee mainly on the ground that it was arbitrary and against rules particularly Mines Amendment Rules 1978 and I.I. 76 whereas management has defended this report.

Both the sides have led oral and documentary evidence which are affidavit of the General Secretary as his examination in chief. He has been cross examined from the side of management. The management has also filed affidavit of its witness as his examination in chief, who has been cross examined from the side of workman union. The workman union has filed and proved documents appointment offer of the workman Form-B service extract of the workman as Ex. W/1 to W/3. Management has also filed these 3 documents as well medical examination report prepared by the Medical Officer on Form-O under Rule 29 of Mines Rules at the time of first appointment of the workman. Management has further filed LTC bills of the workman notice regarding correction in the service records

issued by management in 1987, Form-PS3 and PS4. Management has further filed and proved copy of order of Hon'ble High Court of C.G., report of the Age Determination Committee constituted in compliance of order of Hon'ble High Court as mentioned above.

I have heard argument Union Representative Shri Bhagwat Prasad Dubey and Shri Neeraj Kewat learned Advocate for management. The workman side has filed written argument which is part of record, I have gone through the written argument as well.

On perusal of record in the light of rival arguments following issue arises for determination:-

***“Whether the report of Age Determination Committee deciding the date of birth of the workman Biswajit Pandey has 27.07.1956 can be faulted in law or fact?”***

**According to the workman union**, the workman was issued appointment offer by management for his appointment to the post of Piece Rated Worker under NCWA-3. This document has been relied upon by both the sides. Clause-4c of this offer requires the workman to produce certificate of age, such as school certificate or proof of age by Colliery Medical Officer apart from other documents. This is also not disputed that the workman was examined by Medical Officer who prepared his report after medical examination declaring the workman medically fit to join the post. This document is also relied by both parties. In this report, it has been mentioned that the workman appears to be of 18 years of age on the date of his medical examination on 24.06.1984. In the Form-B of the workman prepared by management on the basis of information provided by the workman his date of birth was recorded 27.06.1956 as informed by the workman. The same date of birth is recorded in the service register, in Form-PS3 & PS4 which are particulars of the family and nomination form filled in and signed by the workman. The management has proved a general notice said to be issued by management in 1987 as a onetime measure to all its employees with details of family, date of birth & other particulars recorded in the service documents of the employees and invited objections from its employees if any entry was incorrect according to them and required to be corrected. There appears an endorsement by the workman “JANMTITHI GALAT HAI”.

As it appears from the report of the Age Determination Committee, it observed that the age of the workman recorded 18 years by the Medical Officer who examined him with respect to the appointment offer could not be relied upon because it was an assessment of the Medical Officer on the basic looks of the workman and not after any scientific investigation. The Age Determination Committee further found that in the Form-B, service register, service excerpts dated 01.04.1987, LLTC claims, PS3 & PS4 the workman declared his date of birth as 27.07.1956 whereas in Form-B his date of birth is recorded as 27.06.1956. The Committee also took notice of the fact that the workman did not take any further steps after service of notice/service excerpts on 01.04.1987 to get his date of birth corrected. He did not file any educational certificate in support of his date of birth at the time of his appointment. The Committee further noted that as per Radiological examination held on 03.10.2013 the age of the workman was assessed in between 55 to 60 years.

The main objection of the Union representative on this report is that the first document is the medical examination report of the Medical Officer who examined the workman before appointment and recorded his age 18 years at the time of examination on 24.06.1984. This report is prepared in the light of Rules 29-B of Mines Rules. Further submitted that Form-B was not signed by the workman, hence the Age Determination Committee committed mistake in not considering these factors, while deciding the date of birth of the workman.

I.I. 76 Clause-B which deals review determination of date of birth in respect of existing employees is being reproduced as follows :-

***“Review determination of date of birth in respect of existing employees.***

- i. a) ***In the case of the existing employees Matriculation Certificate or Higher Secondary Certificate issued by the recognized Universities or Board Middle Pass Certificate issued by the Board of Education and / or Department of Public Instruction and admit cards issued by the aforesaid Bodies should be treated as correct provided they were issued by the said Universities/ Boards/ Institutions prior to the date of the employment.***
- i. b) ***Similarly, Mining Sirdarship, Winding Engine or similar other statutory certificates where the Manager had to certify the date of birth will be treated as authentic.***  
  
***Provided that where both documents mentioned in (i) (a) and (i) (b) above are available, the date of birth recorded in (i) (a) will be treated as authentic.***
- ii. ***Wherever there is no variation in records, such cases will not be reopened unless there is a very glaring and apparent wrong entry brought to the notice of the Management. The Management after being satisfied on the merits of the case will take appropriate action for correction through Determination Committee/ Medical Board.***

- (C) *Age Determination Committee/Medical Board for the above will be constituted by the Management. In the case of employees whose date of birth cannot be determined in accordance with the procedure mentioned in (B) (i) (a) or (B) (i) (b) above, the date of birth recorded in the records of the company, namely, Form B register, CMPF Records and Identity Cards (untampered) will be treated as final. Provided that where there is a variation, in the age recorded in the records mentioned above, the matter will be referred to the Age Determination Committee/Medical Board constituted by the Management for determination of age.*
- (D) *For determination of the age, the Committee/Medical Board referred to above may consider the evidence, available with the Colliery Management and/or adduced before the employee concerned.*
- (E) *Medical Board constituted for determination of age will be required to assess the age in accordance with the requirement of "Medical Jurisprudence" and the Medical Board will as far as possible indicate the accurate age, assessed and not approximately.*

Now, considering the report of the Age Determination Committee in the light of I.I. 76 and Rule 29-B of Mines Rules, the medical examination by the Medical Officer on 24.06.1984 which states the age of the workman at 18 years is not on any scientific investigation rather it is on the basis of external appearance and looks of the workman at the time of his medical examination. Since, it is not based on any scientific investigation, the Age Determination Committee cannot be held unjustified in ignoring this report. The LTC Form and Form-PS3 & PS4 have been filled and signed by the workman in which the date of birth of the workman is recorded 27.07.1956. The fact that the workman did not taken any step for getting his date of birth corrected after he received his service excerpts on 01.04.1987 in which his date of birth was wrongly recorded, coupled the other facts mentioned as above, justify the report of Age Determination Committee. In these circumstances, I find no fault with the report of Age Determination Committee and this issue is answered accordingly.

In the light of the above finding, the action of management in superannuating the workman on the basis of his date of birth 27.06.1956 is held justified.

In the light of aforesaid findings, the action of management in superannuating the workman on the basis of his date of birth 27.06.1956 during pendency of proceedings under Section 33 of the Act is also held justified in law.

The reference stands answered accordingly. No order as to cost.

DATE:- 15/05/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 जून, 2024

**का.आ. 1117.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर/75/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[सं. एल. 22013/01/2024-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 7th June, 2024

**S.O. 1117.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC/R/75/2020) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 06/06/2024

[No. L-22013/01/2024- IR (CM-II)]

MANIKANDAN. N, Dy. Director

#### ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR**

**NO. CGIT/LC/R/75/2020**

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Lakhan S/o. Shri Chow,

R/o. Ward No.-26, Paraspani  
Bartunga, P.O. Chirimi  
Distt.- Korea (CG)-497449

Workman

Vs

The Sub Area Manager,  
SECL, Chirmiri UG Sub Area  
P.O. Chirmiri Colliery,  
Distt.- Korea (CG)-497773

Management

### (JUDGEMENT)

(Passed on this 10<sup>th</sup> day of May 2024)

As per letter dated 12/11/2020 by the Deputy Chief Labour Commissioner (Central) Jabalpur, Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. RP-5(1-3)/2020-ES-III, dt. 12/11/2020. The dispute under reference relates to:

***“Whether the action on the part of management of SECL, Chirmiri Area, in dismissing the long service of the workman namely Shri Lakhan S/o. Chow, some days before his normal retirement age is legal and justified ? If not, to what relief the workman is entitled ?”***

After registering a case on the basis of the reference, notices were sent to the parties and were served. The workman never appeared inspite of service on him on 25.02.2021 and did not file any statement of claim. Management filed their written statement of defense.

**In its written statement of defense, the management** has taken a case that the workman was working as Support Mistri in Chirimiri. A complaint dated 05.04.2017 was received from Satya Pujan Mishra RTI Activist that he had got employment in the name of Lakhan S/o. Chow whereas his original name was Lakshman Mandal S/o. Ekadashi Mandal. A letter was sent by management to S.P. of District Ganjam Orissa where his permanent address was recorded in his service records, to verify and report about the complaint. He sent his verification report on 14.07.2017 according to which the real name of the workman was Lakshman Mandal S/o. Ekadashi Mandal. A charge sheet was issued to him on 08.05.2018. He submitted his reply on 18.05.2018. Management decided to conduct an enquiry and ordered a departmental enquiry against the workman on 31.07.2018, the workman participated in the enquiry. He produced his evidence and cross examined management witnesses. The enquiry report submitted his report dated 08.05.2018 holding the charges proved against the workman. The reply of the workman on the enquiry report was found not satisfactory and the Disciplinary Authority passed the order of dismissal on 29.08.2018, which is based on evidence in the enquiry and proportionate to the charge.

During the course of the proceedings, the workman never appeared hence, the reference proceeded ex-parte against him.

The management filed affidavit of its witness Santosh Kumar who corroborated the case of management and proved the enquiry papers. This witness was not cross examined by workman.

At the stage of argument, the workman did not appear. I have heard argument of learned Counsel Shri Neeraj Kewat for workman and have gone through the record.

Following points arise for determination in the case in hand:-

- 1) ***Whether the departmental enquiry was legally conducted ?***
- 2) ***Whether the charges are proved ?***
- 3) ***Whether the punishment is proportionate to the charges ?***

#### **Point No.-1 :-**

The burden to prove point no.-1 is on workman. On perusal of uncross examined affidavit of management witness and enquiry papers, I find no violation of any principle of natural justice or rules of procedure for conducting enquiry, hence point no.-1 is answered accordingly.

**Point No.-2 :-**

On perusal of enquiry papers, there is nothing to disagree with the finding of the Enquiry Officer, hence his finding regarding proof of charges is held proved.

**Point no.-3 :-**

In this case the charge proved against the workman is furnishing false information with regard to age name, father's name, qualification etc. by the workman with respect to his employment which is a major misconduct under Clause 26.9 of the Certified Standing Orders. This charge provides major punishment of dismissal. Keeping in view the nature of the charge proved, the punishment is found not excessive to the proved misconduct and there is no occasion to interfere with the punishment order.

In the light of above discussion and findings, the reference deserves to be answered against the workman and is answered accordingly. No order as to cost.

DATE:- 10/05/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 जून, 2024

**का.आ. 1118.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल के पंचाट (सन्दर्भ संख्या 10/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/06/2024 को प्राप्त हुआ था।

[सं. एल. 22012/98/2005-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 7th June, 2024

**S.O. 1118.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award ( **Reference.I.D.No.10/2006**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **05/06/2024**

[No. L-22012/98/2005 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

**ANNEXURE****BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 10 OF 2006**

**PARTIES:** Pritam Singh  
(represented by his dependent wife Charan Kaur)

**Vs.**

Management of Ponati Workshop of ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Goswami, Advocate.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 26.04.2024

### AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order No. **L-22012/98/2005-IR(CM-II)** dated 12.06.2006 has been pleased to refer the following dispute between the employer, that is the Management of Poniat Workshop of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

### SCHEDULE

*“ Whether the action of the management of Poniat Workshop, M/s ECL, Jamuria of dismissal of Shri Pritam Singh is legal & justified? If not, to what relief the workman is entitled to? ”*

1. On receiving Order No. **L-22012/98/2005-IR(CM-II)** dated 12.06.2006 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 10 of 2006** was registered on 19.06.2006 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. Rakesh Kumar, Union representative for the workman and Mr. P. K. Goswami, learned advocate for the management of ECL have appeared and filed their written statement on 02.12.2009. In gist the fact of the case as per the written statement of the workman is that Pritam Singh, was a permanent employee of Eastern Coalfields Limited (hereinafter referred to as ECL) and posted as a Driver at Ratibati Workshop. He was wrongly and illegally dismissed from his service by the company. Pritam Singh was chargesheeted vide Charge Sheet No. ECL/PW/Chargesheet/91/1387 dated 30.12.1991 on an allegation of theft of company's property. Pritam Singh submitted his reply but the management of the company ordered a domestic enquiry. The Enquiry Officer conducted an enquiry and held the workman guilty of the charge. During pendency of the proceeding management issued an order of transfer of Pritam Singh bearing order no. ECL/CMD/C-6B/Trf/62 dated 08.01.1992 on his transfer he joined at Rajmahal Project. The management simultaneously lodged an FIR before police and a specific case of theft was registered before the Learned Judicial Magistrate at Asansol Court. On the basis of Departmental Proceeding management dismissed Pritam Singh from service and communicate the order of dismissal to him vide Ref No. ECL/PW/Displ.action/94/2006 dated 03.10.1994. According to the union, management awarded three punishments; firstly, an FIR was lodged at Police Station and police arrested the workman who was subsequently released on bail, secondly, an order of transfer from Poniat Workshop to Rajmahal was issued and thirdly, an extreme punishment of dismissal from service was imposed.

3. It is contended that, at the end of court proceeding Pritam Singh was not found guilty of the charge and he was acquitted from the case. However, in the Departmental Proceeding the Agent of Poniat Workshop issued an order dated 03.10.1994 dismissing Pritam Singh from his service, when the workman was already transferred to Rajmahal. It is urged that a workman who is not on the roll of Poniat Workshop cannot be dismissed by the Agent of Poniat Workshop and the order of dismissal required to be issued by the Agent of Rajmahal, where Pritam Singh was posted.

4. During pendency of the criminal case before the Hon'ble Court at Asansol, the union did not raise any dispute. After an order of acquittal was passed an Industrial Dispute was raised before the Assistant Labour Commissioner (Central), Asansol and the matter was thereafter referred to this Tribunal for adjudication as to whether dismissal of Pritam Singh from his service is just and proper. The union urged that the aggrieved workman was not served with the Enquiry Proceeding and report of the Enquiry Officer before his dismissal. It is contended that the management should not have taken any action before disposal of the criminal case. It was open for the management to take recourse to one course of action, either by issuance of Charge Sheet or by lodging FIR. The management further did not follow the guidelines of the Hon'ble Supreme Court of India by not issuing the 2<sup>nd</sup> Show Cause Notice to the workman before issuing order of dismissal. It is the case of the union is that Pritam Singh died on 22.12.2006 and his wife requested the management of the company to pay her the legal dues like gratuity. According to the union dismissal from service is an extreme punishment and the same is not awarded to anyone without enquiring the fact carefully. According to the union the service of Pritam Singh under the company was unblemished and the order of dismissal passed against him is liable to be set aside and Pritam Singh should be considered to be in service of the company from 31.09.1994 by declaring the order of dismissal as illegal and his legal heir should be paid full back wages during the period of his idleness from 03.10.1994 till the date of superannuation from the company i.e. 01.07.2000.

5. The Management of ECL contested the case by filing their written statement. The specific case of the management is that Pritam Singh was chargesheeted on 30.12.1991 under Clause 17 (i)(a)(q)(r) of the Standing Order applicable to him. He replied to the charge levelled against him and a Domestic Enquiry was held in which the workman participated and availed reasonable opportunity to defend himself. The Enquiry Officer submitted his report holding him guilty and on the basis of such enquiry Pritam Singh, who was posted at Rajmahal OCP was dismissed from service. It is their case that there has been undue delay of ten years in raising the Industrial Dispute

and the same is liable to be dismissed. Management has urged that the union has no locus standi to represent the workman as he was not a member of the union.

6. Further case of the management is that the workman committed an offence of theft of property of ECL which is a serious offence and there is no scope of exhibiting leniency. It is urged that due to such misconduct the workman was transferred to Rajmahal OCP under Rajmahal Area and an FIR was lodged against the workman at Jamuria Police Station, giving rise to a specific case under Section 379 and 411 of the Indian Penal Code, which ultimately ended in acquittal. The management urged that the Industrial Dispute is not maintainable and the same is liable to be dismissed.

7. On the death of Pritam Singh a petition was filed on 29.05.2013 for substitution of Charan Kaur, as his legal heir. Union filed a rejoinder on 06.02.2017 reiterating the facts. Charan Kaur, wife of Late Pritam Singh was examined as Workman Witness – 1. She filed an affidavit-in-chief on 10.02.2016 and adduced evidence on behalf of her deceased husband. It is stated in her affidavit-in-chief that the management issued a Charge Sheet against Pritam Singh on 30.12.1991 and he submitted his reply and the management thereafter appointed an Enquiry Officer who conducted the enquiry in respect of the charge. The management also lodged an FIR before police. On holding the Enquiry, management dismissed her husband and an order of dismissal was communicated to him on 03.10.1994. The witness claimed that her husband was wrongfully dismissed from service and his dismissal should be declared as illegal and full wages should be paid to the dependent from the date of dismissal to the date of superannuation with other consequential benefits. During evidence the following documents were produced :

- (i) Photocopy of Charge Sheet was produced as Exhibit W-1.
- (ii) Photocopy of order of dismissal issued by the Agent of Poniat Workshop, as Exhibit W-2.
- (iii) Photocopy of Death Registration Certificate of Pritam Singh, as Exhibit W-3.

8. From the cross-examination of WW-1 it transpires that the Charge Sheet and the order of dismissal in respect of Pritam Singh were issued from Poniat Workshop. She denied the suggestion that her husband was dismissed in proper manner. Mangal Singh, Satnam Singh, Rajendra Singh @ Raju Singh, the three sons of Late Pritam Singh and Balbinder Kour and Lakhbinder Kour, two married daughters of Late Pritam Singh have filed their affidavit-in-chief, wherein they have stated that they authorized Charan Kaur to receive all financial benefits of their father.

9. Management of ECL examined Mr. Pragyanand Pandey, Assistant Manager (Personnel), Poniat Workshop as Management Witness – 1. In course of his evidence he has produced the following documents in support of management's case :

- (i) Photocopy of the Charge Sheet dated 30.12.1991 has been produced as Exhibit M-1.
- (ii) Photocopy of the Reply dated 15.01.1992, in three pages, as Exhibit M-2.
- (iii) Photocopy of the Notice of Enquiry dated 27.03.1992 and 02.04.1992 issued by Mr. D. K. Banerjee, Enquiry Officer, as Exhibit M-3 and M-3/A respectively.
- (iv) Photocopy of the Enquiry Proceeding, as Exhibit M-4.
- (v) Photocopy of the Enquiry Report dated 27.07.1993 and 26.07.1993, as Exhibit M-5 and 5/A (in three pages collectively).
- (vi) The witness admitted that no 2<sup>nd</sup> Show Cause Notice was issued to the workman. The witness also averred that the Agent of Poniat Workshop passed an order of dismissal with approval of competent authority of ECL. Photocopy of the dismissal order dated 03.10.1994 has been marked as Exhibit M-6.
- (vii) Photocopy of the dismissal order dated 25.10.1996 issued by the Agent of Rajmahal OCP is produced as Exhibit M-7.

10. In his cross-examination MW-1 deposed that an FIR was lodged on 20.12.1991 giving rise to G. R. Case No. 1734/91 under Section 379 and 411 of the Indian Penal Code. Tinu Khan, Md. Afjal, Imtiaz Mia, Ram Kishna Sarma, Chemilal Show, Brijbehari Singh and Lala Nunia were the co-accused persons. The witness stated that there must be a seizure list in this case supporting charge under Section 411 of the Indian Penal Code which relates to recovery of stolen property from the possession of the accused. The management witness could not state the reason of delay in issuing Charge Sheet and deposed that the content of the Charge Sheet regarding place of recovery of stolen goods were correct. Witness deposed that Mr. N. I. Khan, Presenting Officer, stated in his report that on 20.12.1991 when he went to Poniat Workshop at 07.00 a.m., he received information from the Foreman In-charge of Electrical Department that some Secondary Coil of Transformer had been stolen by the miscreants in the night of 19.12.1991 along with other material. The witness admitted that the Presenting Officer did not examine any witness nor did he produced document to substantiate the charge. The management witness admitted that no 2<sup>nd</sup> Show Cause



Notice was issued to the charged employee and in course of enquiry on 10.01.1992 the workman was transferred to Rajmahal OCP. According to MW-1 after acquittal from criminal case Pritam Singh was never reinstated under ECL and Gratuity and Provident Fund dues have not been disbursed. The witness at the end however, denied that dismissal of Pritam Singh was unjustified and illegal.

11. On 21.11.2023 Mr. Pragyanand Pandey (MW-1) was further examined and he stated before the Tribunal that he has not been able to produce the document of competent authority regarding dismissal of Pritam Singh. He also stated that in G. R. Case No. 1734/91 at Asansol Court, Pritam Singh was acquitted from the charge of theft and a copy of the judgement was produced as Exhibit M-8. The management witness admitted that after acquittal of Pritam Singh from the charge, the management preferred no appeal against the judgement of acquittal nor did it take any step for reinstatement of Pritam Singh. Management witness denied that the punishment imposed against the charged employee was disproportionate or that he was illegally dismissed from service.

12. Mr. Rakesh Kumar, representing the dependent wife of the deceased employee argued that Mr. N. I. Khan, the Presenting Officer stated before the Enquiry Officer that on 20.12.1991, when he reported for duty at Poniat Workshop at 7.00 a.m., he received information from the Electrical Department through Foreman Incharge that Secondary Coil of Transformer had been taken away by miscreants on the night of 19.12.1991 along with other materials. Thereafter Mr. Khan lodged an FIR at Jamuria Police Station to the effect that the Transformer Coil with approximate weight of 200 Kilograms along with other materials were stolen. Mr. Khan stated that the Officer in charge of Jamuria Police Station went to Jamuria Bazar along with police personnels to search out the stolen materials. The Police Officer met the agent of Poniat Workshop on the same day and asked him to call the Security Guards and Armed Guard namely, Md. Afzal Hussain, Tinu Khan, Imtiaz Mia, and Ram Kishna Sarma. The materials which were recovered from the shop of Chunnilal Shaw of Jamurai Bazar were asked to be identified and Mr. N. I. Khan identified the recovered materials. It is stated by Mr. Khan that on 23.12.1991 the O.C. Jamuria Police Station also recovered 200 Kilograms of Copper Coil from the compound of the quarters of Pritam Singh. The charged employee was arrested. Mr. Rakesh Kumar referred to the judgment passed by the Judicial Magistrate, First Class, Fifth Court, Asansol in G. R. Case No. 1734/91, wherein all eight accused persons including Pritam Singh were acquitted on the ground that prosecution did not examine Mr. N. I. Khan, the FIR maker. Mr. Kumar inter alia argued that apart from Pritam Singh other accused persons who were also employees of ECL were not chargesheeted and no proceeding was initiated against them. The union representative vehemently argued that the statement of Mr. N. I. Khan before the Enquiry Officer has no force as it was hearsay evidence and he has no direct information regarding occurrence and alleged recovery of the stolen property. Accordingly, the order of dismissal passed against Pritam Singh without issuance of any 2<sup>nd</sup> Show Cause Notice is bad in law and the order of dismissal without compliance of mandatory provision, based upon hearsay statement is illegal, arbitrary and is liable to be set aside. Mr. Kumar argued that Pritam Singh should be deemed to be in service from the date of his dismissal on 03.10.1994 till the date of his superannuation i.e. 01.07.2000. It is urged that full back wages for the entire period along with all other consequential retirement benefits may be paid to Charan Kaur, the wife of the deceased employee.

13. Mr. P. K. Goswami, learned advocate for the management of ECL submitted that a case of theft in the workshop was reported in the night of 19.12.1991 and Mr. N. I. Khan, company's representative also lodged an FIR before Jamuria Police Station on the basis of which a specific criminal case was initiated. During investigation Police recovered some stolen property of the employer company from the premises of Pritam Singh and after holding enquiry, he was found guilty and accordingly dismissed him from service. Learned advocate argued that a Departmental Proceeding was held independent of the criminal proceeding, therefore despite acquittal of the charged employee in the criminal case due to lack of evidence, there was sufficient material before the Enquiry Officer to hold the charged employee guilty and there was no error in dismissing the charged employee, even after his transfer.

14. I have perused the scheduled reference, written statement submitted by the union and management, also considered the evidence on record, report of Enquiry Proceeding as well as copy of the judgment passed by the learned Judicial Magistrate, Fifth Court, Asansol, in G. R. Case No. 1734/91 under Section 379 and 411 of the Indian Penal Code. On a close reading of the Enquiry Proceeding and the Judgment passed by the learned Judicial Magistrate, stemming from the same offence / misconduct of theft, I find that Mr. N. I. Khan, Manager, Poniat Workshop performed the duty of the Presenting Officer in the Departmental Enquiry. From the statement made by the Presenting Officer on 16.04.1992, it transpires that on 20.12.1991, when he reported at Poniat Workshop at 07.00 a.m. for his duty he received information from the Electrical Department via Foreman Incharge that Secondary Coil of Transformer had been stolen by the miscreants along with other materials in the night of 19.12.1991. He rushed to the Police Station along with the Security Incharge and lodged an FIR in the Police Station. The Officer-in-Charge, Jamuria Police station visited Poniat Workshop on 20.12.1991 and examined the Security Guards and Armed Guard and recorded their statements. Some recovery was made from the shop of Chunnilal Shaw of Jamuria Bazar which were identified as the properties of Poniat Workshop. Mr. N. I. Khan further stated before the Enquiry Officer on 23.12.1991 that Officer-in-Charge, Jamuria Police Station recovered 200 Kilograms of Copper Coil from the quarter compound of Pritam Singh, the driver and arrested the driver.



15. It further appears that during cross-examination of Mr. N. I. Khan by Pritam Singh, as to on what basis he stated that the Transformer Coil was recovered from his quarters, the Presenting Officer stated that the police had told him about the same. This statement gives us a clear view of the matter that Mr. Khan had no personal knowledge except the reporting made to him by the Police regarding recovery. In course of Enquiry Proceeding no witness of seizure or recovery was examined by the Enquiry Officer. Pritam Singh, the charged employee in his statement deposed that he did not know that there was an incident of theft at Poniati Workshop on 19.12.1991. He was in his quarters at 08.00 a.m. on 20.12.1991 when he learnt about the incident which took place in the previous night. The police arrested him on 23.12.1991 on an allegation that material was recovered from the compound of his quarters. Pritam Singh denied the charge of such recovery from his possession. The Enquiry Officer in his report dated 27.07.1993 (Exhibit M-5) stated that the Enquiry Report dated 26.07.1993 in three pages was being produced. On a close scrutiny, I find the Enquiry Report dated 26.07.1993 has been marked as Exhibit M-5/A collectively in three pages.

16. On a close reading of the Enquiry Report I find that the allegation which made by Mr. N. I. Khan against the charged employee are hearsay in nature which is not tenable under the law for holding the workman guilty of charge. The Enquiry Officer stated that the charged worker neither produced any document nor examined any witness in his defence during enquiry proceeding. The Enquiry Officer observed that from the statement of the Presenting Officer it was found that the charged workman was arrested by the police in connection to recovery of stolen materials from compound of his quarters on 23.12.1991. This observation of the Enquiry Officer based upon arrest of Pritam Singh without any evidence of recovery does not support the management case for holding the charged employee guilty of the offence of theft. In the Enquiry Proceeding Hardeo Yadav, Security Guard was examined on 16.04.1992. He stated that he was on duty at the main gate of Poniati Workshop. In the midnight between 19.12.1991 to 20.12.1991, Pritam Singh, Driver, Tinu Khan, Ram Kishna Sarma, and Lala Nunia, Security Guards snatched the key of the main gate from him forcibly and entered the workshop by opening the main gate. They took out the key of the Electrical Shop from Key Board, opened the door of the Electrical Shop and took out Transformer Coil and took the same in the Jeep driven by Pritam Singh, the driver. He tried to resist them but they threaten to kill him, if he reported the matter to anybody. Hardeo Yadav further stated that Ram Kishna Sarma showed his revolver and threatened him that he would shoot him if he resisted them.

17. The Enquiry Proceeding reveals that the statement made by Hardeo Yadav, Security Guard was in connection with a Charge Sheet dated 30.12.1991 issued to Hardeo Yadav. Therefore, it is apparent that statement made by Hardeo Yadav was not in connection with the enquiry arising out of Charge Sheet No. ECL/PW/Chargesheet/91/1387 dated 30.12.1991, issued to Pritam Singh. The statement of Hardeo Yadav cannot be used against Pritam Singh as he did not have the opportunity to cross-examine the witness. The settled principle of law is that the statement of a co-accused against accomplice in the same procedure would be relevant if the accused makes confession affecting such other person and himself. In the commission of the offence no such statement is made by Hardeo Yadav implicating himself and Pritam Singh. Furthermore, in matter of grave allegation I find no corroborative evidence from any other witness. In my considered view Mr. D. K. Banerjee, Enquiry Officer has failed to appreciate the legal evidence in its true spirit. He has misplaced the burden of proof upon the charged employee to the effect that he did not adduce any evidence and based his findings on an isolated statement of another charged employee made in a separate proceeding where he disowned his involvement. It is also evident from the statement of the management witness that no 2<sup>nd</sup> Show Cause Notice was issued to the charged employee before issuance of order of dismissal. The order dated 03.10.1994 issued by the Agent of Poniati Workshop refers to an order of dismissal bearing No. ECL/CMO/C-60/94/DA/SPL/3265 dated 27/30.09.1994 as approved by the Director (Personnel), ECL. No such copy of order was produced by the management. It appears to me that the order of dismissal was not passed by the competent authority i.e. the Disciplinary Authority in this case. The management of the company appears to have violated the principle laid down by the Hon'ble Supreme Court of India in the case of **Union of India and Others Vs. Mohd. Ramzan Khan [AIR (1991) SC 471]**, laid down the law as follows:

*“ When the Inquiry Officer is not the Disciplinary Authority, the delinquent employee has a right to receive a copy of the inquiry officer's report before the Disciplinary Authority arrives at its conclusion with regard to the charges levelled against him. A denial of the inquiry officer's report before the Disciplinary Authority takes its decision on the charges, is denial of opportunity to the employee to prove his innocence and is a breach of principles of natural justice.”*

The principle laid down by the Hon'ble Supreme Court of India was enforced by the Coal India Limited by way of issuing a Circular bearing No. CIL C-5A(vi)/50774/28 dated 12.05.1994, wherein it has been clearly laid down that the charged employee had to be supplied with Enquiry Proceeding and Enquiry Report and a 2<sup>nd</sup> Show Cause Notice had to be issued to him before taking any final decision of removing him from service. In my considered view such mandatory procedures have not been complied and the Enquiry Officer appears to have reached his conclusion on the basis of information and hearsay evidence without making any effort to find out the truth as to from whose custody the stolen materials have been recovered.

18. It would now be apposite to consider the contents of the judgment dated 07.03.2000 passed in G. R. Case No. 1734/91 under Section 379 and 411 of the Indian Penal Code, which arose out of the selfsame occurrence. From the findings of the learned Magistrate, it is gathered that Mr. N. I. Khan, the de-facto complainant was not examined in the case. The contents of FIR were not proved. Kashmir Singh, PW-1, and Ranglal Sharma, PW-2, said to be seizure witnesses did not adduce any evidence that any seizure was made in their presence from the possession of any of the accused persons. Learned Magistrate held that there was no material on record to establish that the seized articles were identified by the complainant at any point of time. It was held that the accused persons were found not guilty and they were acquainted from the case. Since alams (seized goods) were not identified or claimed by Poniati Workshop, they were confiscated to the state. With such materials on record, I find that the order of dismissal passed by the management against Pritam Singh is without any base, the same is arbitrary, improper, unjustified and is not sustainable under law. In the light of my above discussion, I am of the considered view that the order of dismissal passed against Pritam Singh on 03.10.1994 (Exhibit M-6) and 25.10.1994 (Exhibit M-7) are set aside. Pritam Singh, the aggrieved workman having died on 22.12.2006 shall be deemed to have been in service of the company from 03.10.1994 till the date of his notional superannuation on 01.07.2000. Charan Kaur, wife of the deceased employee shall be entitled to receive all the retiral and consequential relief. It appears that Pritam Singh did not render any service to the company during this long period of nearly six years. There is no evidence on record that he did not work for any gain. Under such circumstances I find it appropriate to allow fifty percent (50%) of back wages of Pritam Singh from 03.10.1994 to 01.07.2000 in favour of Charan Kaur, the widow of the deceased workman. The management of the company is directed to make payment of outstanding dues to the wife of the deceased employee within one month from the date of communication of the order.

Hence,

### ORDERED

that the Industrial Dispute is decided in favour of the petitioner on contest against the management of ECL. The impugned orders of dismissal of Pritam Singh dated 03.10.1994 and 25.10.1994 are set aside. He shall be deemed to have been in service from 03.10.1994 till the date of his notional superannuation (01.07.2000). Charan Kaur, the wife of the deceased workman shall be entitled to receive fifty percent (50%) of the back wages of the workman from 03.10.1994 till 01.07.2000 along with consequential relief and retiral dues. The entire amount shall be paid to the widow of the deceased within one month from the date of communication of the Award. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 7 जून, 2024

**का.आ. 1119.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल के पंचाट (सन्दर्भ संख्या 14/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/06/2024 को प्राप्त हुआ था।

[सं. एल-22012/108/2019-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 7th June, 2024

**S.O. 1119.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award ( **Reference.I.D.No.14/2020**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **05/06/2024**.

[No. L-22012/108/2019- IR (CM-II)]

MANIKANDAN. N, Dy. Director

### ANNEXURE

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 14 OF 2020****PARTIES:**

Seven Dhangar

**Vs.**

Management of Kajora Area of ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Das, Adv.

**INDUSTRY:** Coal.**STATE:** West Bengal.**Dated:** 10.05.2024**AWARD**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order No. **L-22012/108/2019-IR(CM-II)** dated 06.02.2020 has been pleased to refer the following dispute between the employer, that is the Management of Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**SCHEDULE**

*“ Whether the dismissal of Shri Seven Dhangar, Ex- General Mazdoor from service on 21.9.2015 and denial to reinstatement by the management of M/s. ECL, as raised by Colliery Mazdoor Congress (HMS), Asansol, is just and legal? If not, to what relief the concerned workman is entitled to and from when? ”*

1. On receiving Order No. **L-22012/108/2019-IR(CM-II)** dated 06.02.2020 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 14 of 2020** was registered on 24.02.2020 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. The management of Kajora Area of Eastern Coalfields Limited (hereinafter referred to as ECL) filed their written statement through the Agent of Madhusudanpur Colliery on 05.12.2022. Mr. P. K. Das, learned advocate appeared on behalf of the management of ECL. The dismissed workman filed written statement on 22.02.2023 through Mr. Rakesh Kumar, Union representative. The fact of the case according to the union is that Seven Dhangar, General Mazdoor bearing No. 124128 was posted at Madhusudanpur Colliery under Kajora Area ECL as a permanent employee. Due to illness the workman could not attend his duty from 20.04.2015. After his recovery he went to the colliery and requested the management for allowing him to join duty but the management did not permit him to join and issued a Charge Sheet bearing No. MSP/P&IR/2015/6/1682 dated 18.06.2015. Seven Dhangar submitted a reply to the Charge Sheet, informing that he was under medical treatment during his absence, which was unintentional. The management not being satisfied with the reply, initiated a Domestic Enquiry by appointing an Enquiry Officer. The charged employee participated in the Enquiry Proceeding where he disclosed that he was under medical treatment under company's Kajora Area Hospital from 03.04.2015 and the Doctor advised him for taking rest for seven days. Doctor further advised him to take up job on the surface. He was allowed to join duty on 23.04.2015 but was advised to take further opinion from Central Hospital at Kalla. Seven Dhangar did not join duty for his underground job and proceeded for his further treatment at Central Hospital, Kalla. The management did not grant his sick leave for medical treatment which continues up to 03.06.2015. The management did not allow him to join after he reported for duty and issued a Charge Sheet on 18.06.2015. The Enquiry Officer found him guilty for his absence from duty from 24.04.2015 to 18.06.2015. The Enquiry Officer found him guilty for his absence from 24.04.2015 to 18.06.2015 i.e. for 1 month and 23 days during the period of his illness while he was under medical treatment at company's hospital. The management awarded extreme punishment of dismissal disregarding the ground of absence. It is contended that Seven Dhangar is a member of Scheduled Cast community, a weaker section of the society and has no source of income for maintain his livelihood. According to him the punishment awarded to him is disproportionate to the nature of offence and the management should have awarded lighter punishment. It is prayed that the order of dismissal should be set aside. Seven Dhangar should be reinstated to his employment under the company and full back wages should be paid to him.

3. The contrary case of the management is that Seven Dhangar was posted as an Underground Loader at Madhabpur Colliery under ECL. He was a habitual absentee and was reprimanded several times for his poor attendance. On the last occasion he absented on and from 24.04.2015 without any information or prior approval of the leave from the appropriate authority. The management chargesheeted him on 18.06.2015 under Clause 26.23 for his habitual absence and under Clause 26.29 of Certified Standing Order for his absence from duty beyond ten days without sanctioned leave or sufficient cause. The matter was referred for domestic enquiry and the workman participated in the Enquiry Proceeding. The charge of unauthorized absence was proved beyond doubt and based upon the findings of the Enquiry Officer the workman was dismissed from his service vide letter No. KA:APM(IC):C-6:Dismissal:431 dated 21.09.2015. A 2<sup>nd</sup> Show Cause Notice was issued to the workman before his dismissal and he replied to the same.

4. Management of ECL contended that the Certified Standing Order of the company provides opportunity to the workman to appeal against any order of punishment within a period of forty-five days from the date of issuance of the order of dismissal but in this case the workman did not appeal within the stipulated period, which implies that the punishment is binding upon him. Further case of the management is that the attendance of the workman in the preceding six years was bad and the workman was a habitual absentee. Out of 305 days available for work in a year, the workman in the year 2010 attended duty on 93 days, in the year 2011 he worked for 89 days, in the year 2012 for 107 days, in the year 2013 for 61 days, in the year 2014 he did not attended duty for a single day, and in the year 2015 for 26 days. For his unauthorized absence the workman was previously punished with stoppage of 1 SPRA / increment vide letter dated 24.04.2010, 2 SPRA / increments vide letter 23.08.2011 and demotion to the grade of General Mazdoor in Category – I without any pay protection vide letter dated 26.02.2015. It is the case of the management that when a workman frequently absented from duty his name cannot be maintained in the roll indefinitely and the post cannot be allowed to remain vacant. It is urged by the management that the punishment imposed upon the workman is proportionate to his misconduct and the workman is not entitled to any relief in this case.

5. In support of his case Seven Dhangar has filed an affidavit-in-chief on 29.05.2023 and examined himself as Workman Witness – 1. In course of his evidence the workman has produced a copy of the order of dismissal dated 21.09.2015 which has been marked as Exhibit W-1 and copies of the documents relating to medical treatment in five pages, which have been collectively marked as Exhibit W-2.

6. In course of his cross-examination the dismissed workman stated that he was medically treated at Kajora Hospital and was declared medically fit after treatment. As he was advised by doctor not to work underground, he did not perform duty. The workman also admitted that in the year 2014 he did not attended duty for a single day.

7. Mr. Proloy Dasgupta, Manager (Personnel), Madhusudanpur Colliery under Kajora Area of ECL filed his affidavit-in-chief and was examined as Management Witness – 1. In his examination-in-chief the management witness deposed that Seven Dhangar was dismissed from service on 21.09.2015 for unauthorized absence from duty from 24.04.2015 to 18.06.2015. Management witness produced several documents which have been admitted in evidence as follows :

- (i) Copy of the Charge Sheet dated 18.06.2015 has been marked as Exhibit M-1.
- (ii) Copy of the Reply to the Charge Sheet submitted by the workman stating reasons, as Exhibit M-2.
- (iii) Copy of the Medical Certificate dated 16.06.2015 of the workman, as Exhibit M-3.
- (iv) Copy of the appointment letter of the Enquiry Officer dated 05.08.2015, as Exhibit M-4.
- (v) Copy of the Notice of enquiry dated 06.08.2015, as Exhibit M-5.
- (vi) Copy of the Enquiry Proceeding and report in four pages have been collectively marked as Exhibit M-6.
- (vii) Copy of the 2<sup>nd</sup> Show Cause Notice dated 26.08.2015, as Exhibit M-7.
- (viii) Copy of the Reply to the 2<sup>nd</sup> Show Cause Notice submitted by the workman, as Exhibit M-8.
- (ix) Copy of the Note Sheet dated 13.09.2015 initiated by the Agent of Madhusudanpur Colliery proposing disciplinary action, as Exhibit M-9.
- (x) Copy of the order of dismissal dated 21.09.2015, as Exhibit M-10.

8. In course of cross-examination the management witness deposed that the 2<sup>nd</sup> Show Cause Notice, copy of Enquiry Report and findings were supplied to the workman. There is no case of the workman that 2<sup>nd</sup> Show Cause Notice was not served upon him along with findings of the Enquiry Officer. The witness also deposed that the order of dismissal was issued by the Agent on approval of the General Manager and the Note Sheet bears the approval. The witness categorically deposed that the workman was dismissed from service not only for his unauthorized absence for more than 10 days but his past conduct of unauthorized absence was also taken into consideration. In course of cross-examination the witness asserted that management was not aware that the workman was advised by the Area Medical Officer of ECL for light duty or as the person was not assigned lighter duty he remained absent. The witness denied that the period of absence was covered by the medical certificate submitted by the workman.

9. Mr. Rakesh Kumar, Union representative, arguing the case on behalf of the dismissed workman submitted that the workman was unable to attend his duty due to illness and in support of the same he submitted medical documents before the Enquiry Officer which was not taken into consideration and a disproportionate, harsh, and extreme punishment of dismissal was imposed against the employee for his absence from duty for a period of 1 month and 23 days only and was prevented from attending his duty due to his indisposition. It is contended that the order of dismissal was issued by the Area Personnel Manager (IC), Kajora Area on 21.09.2015 was not binding upon the workman as it was not passed by the General Manager of the Area, who is the controlling Authority.

10. Mr. P. K. Das, learned advocate for the management of ECL, in reply, submitted that the workman was a habitual absentee and charge under clause 26.23 of Certified Standing Order for unauthorized absence and Clause 26.29 for unauthorized absence for a period of more than ten days have been proved against the workman. It is submitted that the workman remained absent on various pretext and did not inform the appropriate authority prior to his absence. In respect of the plea taken by the workman that he was prevented from attending his duty due to his illness learned advocate referring to the Charge Sheet (Ext. M-1) submitted that the workman absented from duty from 24.04.2015 until the Charge Sheet was issued on 18.06.2015. In his reply to the Charge Sheet the workman stated that he was suffering from Tuberculosis for seven years. He claimed to be under treatment of a local doctor from 27.04.2015 to 15.06.2015 and was declared fit for duty on 26.06.2015. Management witness produced a copy of the Medical Certificate issued by Dr. S. Ghosh, a Registered Medical Practitioner dated 16.06.2015 where he certified that Seven Dhangar was under his treatment from 27.04.2015 to 15.06.2015 and was suffering from fever. In the written statement the workman simply stated that he was unable to attend duty due to his illness from 24.04.2015 without naming his ailment. In examination-in-chief the workman stated that he was suffering from Epilepsy for which he could not attend his duty. Therefore, the workman made contradictory statement regarding the nature of his ailment which is self-destructive. Learned advocate for the management submitted that the workman participated in the Enquiry Proceeding and admitted the charges levelled against him without being able to satisfy the reasons of his absence for such a long period. The workman was accordingly found guilty of charge framed and on approval of the General Manager in his Note Sheet dated 16.09.2015 (Exhibit M-9) the workman was removed from the service of the company by Office Order dated 21.09.2015 (Exhibit M-10). Learned advocate argued that the punishment was proportionate to the misconduct of the workman and there is no reason to interfere with the order of punishment.

11. I have considered the facts and circumstances in this case as well as evidence adduced by the parties and argument advanced on behalf of the workman and management. Admittedly, the workman had remained absent from duty from 24.04.2015 till issuance of Charge Sheet on 18.06.2015 without any prior intimation or approval, thereby the charge of unauthorized absence from duty beyond ten days without sanctioned leave has been proved and charge under Clause 26.29 of Certified Standing Order has been established beyond doubt. In course of enquiry, it is found that the workman physically attended his work for 107 days in the year 2012, 61 days in the year 2013, Nil in the year 2014, and 26 days in the year 2015. The workman did not venture to cross-examine the management representative to refute such charges. At the time of his examination before the Enquiry Officer, Seven Dhangar did not deny the charge and on the other hand he tried to reason out his absence on the ground of illness. The Enquiry Proceeding has been produced as Exhibit M-6 (in four pages) and on the basis of such Enquiry Proceeding the Agent of Madhusudanpur Colliery issued a 2<sup>nd</sup> Show Cause Notice to the workman and supplied him with a copy of enquiry proceed and report of the Enquiry Officer seeking explanation. The 2<sup>nd</sup> Show Cause Notice was marked as Exhibit M-7. The workman received the Notice by putting his signature on the back of the 2<sup>nd</sup> Show Cause Notice. On 08.09.2015 the workman submitted a reply stating that he was unable to attend his normal work for the last three years as he was suffering from Tuberculosis. He further stated that he recovered from his illness and wanted to join his duty. Exhibit M-8, the reply of the workman, once again corroborates the charge levelled against the workman. The workman claimed to have suffered from Tuberculosis, Epilepsy, and Fever during the period of his absence but he has failed to produce proper medical documentary evidence before the Enquiry Officer to establish the fact that he was prevented from attending duty for such ailments. The workman claimed to have been under medical treatment under Kajora Area Hospital and produced Ticket for outdoor patients in five pages, which have been marked as Exhibit W-2. It appears from the face of the document that the workman was under treatment from 03.04.2015 and was declared fit for duty on 23.04.2015. The charge levelled against him was from 24.04.2015 till 18.06.2015. The workman therefore did not attend his duty from 24.04.2015, even after he was declared fit for duty. The patient approached the Central Hospital at Kalla on 03.06.2015 and 10.06.2015 but the Hospital declined to issue any Sick Certificate in his favour. the workman then approached a Registered Medical Practitioner who certified that the workman was under his treatment from 27.04.2015 to 15.06.2015 due to fever. This document issued by Dr. S. Ghosh (Exhibit M-3) therefore cannot be relied upon. The workman ran from pillar to post to make out his case but could not obtain supportive document and ultimately admitted the charge.

12. In view of the facts and circumstances I hold that the Enquiry Proceeding held by the management was in accordance with the principles of natural justice and ample opportunity was provided to the workman for making out his case. The findings of the Enquiry Officer, holding the workman guilty of the charge therefore suffers from no infirmity. A 2<sup>nd</sup> Show Cause Notice was issued to the workman before his dismissal. The General Manager, the controlling authority of the charged workman approved the punishment of dismissal in his Note Sheet dated



16.09.2005 (Exhibit M-9) and in accordance with the decision a letter of dismissal was issued on 21.09.2015. I do not find any illegality, inconstancy or incongruity in the process of dismissing the workman on the basis of charge proved against him. The punishment of dismissal passed against the workman does not appear disproportionate against the charge of unauthorized and habitual absenteeism. Accordingly, the workman is not entitled to reinstatement and back wages. The Industrial Dispute is therefore dismissed on contest.

Hence,

**ORDERED**

that an award be drawn up to the effect that the Industrial Dispute is dismissed on contest against the workman and he is not entitled to the relief of reinstatement and back wages. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 7 जून, 2024

**का.आ. 1120.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल के पंचाट (सन्दर्भ संख्या 25/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/06/2024 को प्राप्त हुआ था।

[सं. एल-22012/53/2022-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 7th June, 2024

**S.O. 1120.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award ( **Reference.I.D.No.25/2022**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **05/06/2024**

[No. L-22012/53/2022 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

**ANNEXURE**

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 25 OF 2022**

**PARTIES:** Geeta Singh  
(wife of Late Ranjeet Singh)

**Vs.**

Management of Jambad OCP of ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Das, Adv.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 06.05.2024

**AWARD**

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/53/2022-IR(CM-II)** dated 01.06.2022 has been pleased to refer the following dispute between the employer, that is the Management of Jambad OCP under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**SCHEDULE**

*“ Whether the action of the management of Jambad OCP, Kajora Area of M/s. E.C.Ltd. in not providing employment and monetary compensation to Smt. Geeta Singh W/o Late Ranjeet Singh, Ex- Fitter is legal and justified? If not, what relief Smt. Geeta Singh W/o Late Ranjeet Singh is entitled to? ”*

1. On receiving Order **No. L-22012/53/2022-IR(CM-II)** dated 01.06.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 25 of 2022** was registered on 02.06.2022 / 01.07.2022 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate for Eastern Coalfields Limited filed written statement on behalf of the management of Eastern Coalfields Limited on 16.11.2022. No written statement has been filed by Gita Singh, petitioner. Mr. Rakesh Kumar, President, Koyala Mazdoor Congress (HMS) has appeared on several dates i.e. 16.11.2022, 08.02.2023, 16.05.2023, 26.09.2023, 06.03.2024, and 06.05.2024 but did not file any written statement on behalf of the dependent of deceased employee. After extending six opportunities to the petitioner no effective step has been taken by the union, I am of the considered view that no purpose would be served by allowing unnecessary accommodation. The dependent of the employee is not diligent in pursuing this case. The Industrial Dispute is accordingly dismissed in the form of a No Dispute Award.

Hence,

**ORDERED**

that a No Dispute Award be drawn up in the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 7 जून, 2024

**का.आ. 1121.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल के पंचाट (सन्दर्भ संख्या 05/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/06/2024 को प्राप्त हुआ था।

[सं. एल-22012/62/2004-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 7th June, 2024

**S.O. 1121.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award ( **Reference.I.D.No.05/2005**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on **05/06/2024**

[No. L-22012/62/2004 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

**ANNEXURE**

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 05 OF 2005****PARTIES:**

Mantu Ghosh

(represented by his dependent son, Arup Ghosh)

**Vs.**

Management of 1 and 2 Incline, Jhanra Area of ECL

**REPRESENTATIVES:**

For the Union/Workman: Mr. Milan Kumar Bandyopadhyay, Advocate.

For the Management of ECL: Mr. P. K. Goswami, Advocate.

**INDUSTRY:** Coal.**STATE:** West Bengal.**Dated:** 07.05.2024**AWARD**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order No. L-22012/62/2004-IR(CM-II) dated 27.12.2004 has been pleased to refer the following dispute between the employer, that is the Management of 1 and 2 Incline under Jhanjra Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**SCHEDULE**

*“ Whether the action of the management of 1 & 2 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited in dismissing Sh. Mantu Ghosh, Cleaning Mazdoor, U.M.No. 694706 from services w.e.f. 24.3.98 is legal and justified? If not, to what relief the workman is entitled? ”*

1. On receiving Order No. L-22012/62/2004-IR(CM-II) dated 27.12.2004 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 05 of 2005** was registered on 12.01.2005 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Workman filed a written statement on 03.10.2005 and management filed their written statement on 11.08.2006. The fact of the workman's case is that Mantu Ghosh, the aggrieved workman was a permanent employee under ECL and was employed at 1 and 2 Incline, Jhanjra Area of Eastern Coalfields Limited (hereinafter referred to as ECL). He was regular in his attendance at work but due to illness since 1995 and could not attend his duty regularly. Illness of the workman aggravated in December 1997 as a result he seriously fell ill from 21.12.1997 and was medically treated at the Sub-Divisional Hospital at Asansol up to 11.04.1998. In the written statement he disclosed that he was suffering from Tuberculosis and was advised to take complete rest. The workman being the only male member in his family could not send any information to his colliery regarding the reason of his absence from duty. After recovery he went to join his duty on 12.04.1998 but the colliery management did not permit him to resume his duty and informed him that he had already been dismissed from service w.e.f. 27.03.1998.

3. According to the workman neither any Charge Sheet nor any Notice of enquiry was served upon him by the management before dismissing him from service. No 2<sup>nd</sup> Show Cause Notice and order of dismissal was issued to him. He was verbally intimated on 12.04.1998 that he had been dismissed from service. It is the case of the workman that he absented from duty for three and a half months only and without giving him any opportunity of being heard the management dismissed him without any reasonable ground, which is illegal, whimsical, arbitrary and in violation of the principles of natural justice. The workman requested that management on several occasion to permit him to join his duty but the management did not consider his prayer. The aggrieved workman in this Industrial Dispute has prayed for setting aside the order of dismissal and for his reinstatement in service with full back wages and other consequential benefits.

4. Management of ECL contested the case by filing their written statement. The counter contention of the management is that Charge Sheet bearing No. AGT/JNR/1&2/P/CS/98/15 dated 05.01.1998 under Clause 17(d) and 17(n) of the Model Standing Order applicable to the workman was issued for his unauthorized absence from duty as well as habitual absence, seeking clarification of his absence from duty on and from 21.12.1997. The workman did not submit any reply to the Charge Sheet nor did he attend the domestic enquiry which was held to enquire into the charge levelled against him. Due to non-participation of the workman the enquiry was held ex-parte and the charge was found to be proved. The workman was found to be a habitual absentee from duty and was chargesheeted on several occasions. He was punished on earlier occasion by stoppage of three increment with cumulative effect communicated by letter under Ref. AGT/JNR/1&2/P/97/892 dated 29.11.1997/01.12.1997. Two increments were



again stopped by letter dated 05.06.1997, further two more increments were stopped by letter dated 14.11.1996, again one increment was stopped by letter dated 04/08.10.1996 and two increments were stopped by letter dated 01/04.02.1996. The workman was finally dismissed vide order bearing Ref. No. CGM/JNR/PER/08/98/5308 dated 24/27.03.1998. It is the case of the management that the past attendance of the workman was poor which was only 78 days in the year 1995, 127 days in 1996 and 58 days in 1997. The workman did not deserve any leniency for which he was dismissed. A reference was made before the Assistant Labour Commissioner (Central), Asansol by submission of application by workman on 12.09.2003. The conciliation proceeding failed and after a delay this Reference case has been initiated. Management urged that the dismissal of the workman was lawful and justified and he is not entitled to any relief.

5. Mantu Ghosh filed his affidavit-in-chief on 28.09.2007. During pendency of the Reference case Mantu Ghosh died an unnatural death on 29.09.2008 leaving behind Rita Ghosh, his wife, Arup Ghosh, Pankaj Ghosh, and Manoj Ghosh, his sons, Deepmala Ghosh, his daughter, who were substituted in place of the deceased workman by order dated 25.06.2013. The affidavit-in-chief of Mantu Ghosh was not pressed. At the time of adducing evidence Arup Ghosh, son of Late Mantu Ghosh filed an affidavit-in-chief where he has reiterated the case disclosed in the written statement of the workman. He also asserted that the management straight away dismissed his father without giving him any opportunity to defend himself against the charges levelled against him which are baseless. It is admitted by the witness that Mantu Ghosh could not attend duty w.e.f. 21.12.1997 up to 11.04.1998. In cross-examination the witness deposed that his father was suffering from Tuberculosis and all the papers relating to his treatment had been deposited before the court. The witness deposed that the Sub-Divisional Hospital, Durgapur is nearer to his house than Asansol but his father was treated at Sub-Divisional Hospital at Asansol. The witness could not state as to for how many days his father had remained admitted in the hospital. In course of his evidence, he could not deposit any document related to medical treatment of his father at the Sub-Divisional Hospital, Asansol.

6. Mr. Abhijit Chakraborty, Senior Officer (Personnel) at Jhanjra Project Colliery has examined himself as Management Witness – 1 and filed his affidavit-in-chief wherein he stated that Mantu Ghosh was a habitual absentee and prior to his dismissal he had been punished on several occasions for his unauthorized absence. On five occasions warnings were issued against him in 1995 and 1996. There had been stoppage of increment in 1997. The MW-1 deposed that the Charge Sheet was issued to Mantu Ghosh bearing No. AGT/JNR/1&2/P/CS/98/15 dated 05.01.1998, asking him to show cause for his absence from duty but he did not respond. An Enquiry Officer was appointed to hold the enquiry in the matter but the workman did not appear and the enquiry was held ex-parte. The Enquiry Officer found the workman guilty of charge and a 2<sup>nd</sup> Show Cause Notice was also issued to him but he did not respond. The management thereafter dismissed the workman which is justified and the workman is not entitled to any relief. The witness has produced a copy of the Charge Sheet dated 05.01.1998, as Exhibit M-1 and deposed that Charge Sheet was issued to Mantu Ghosh through registered post at his address at Vill: Kalipur, PO: Dakshinkhanda, PS: Andal, Dist.: Burdwan (West Bengal), but the workman did not submit any reply. The management witness further deposed that Notice of enquiry dated 15.01.1998, 29.01.1998, and 20.02.1998 were issued to Mantu Ghosh and copies of the same were produced as Exhibit M-2, M-3, and M-4. It may be derived from the cross-examination that though venue of the enquiry was not mentioned in the Notice of enquiry the Departmental Enquiry was held on 04.03.1998 at the Office of the Agent, 1 and 2 Incline, Jhanjra Area. A copy of the Enquiry Proceeding in three pages has been produced as Exhibit M-5. A copy of the Enquiry Report dated 04.03.1998, as Exhibit M-6. A 2<sup>nd</sup> Show Cause Notice dated 06/10.03.1998 issued by the Chief General Manager, Jhanjra Area, as Exhibit M-7. A copy of letter of dismissal dated 24/27.03.1998, dismissing Mantu Ghosh from service, as Exhibit M-8. The witness went ahead to state that prior to the dismissal, Mantu Ghosh was punished for his misconduct whereby one increment of his pay was stopped in October 1996 and two increments were stopped for one year in November 1996. The communications were marked as Exhibit M-9 and M-10. Copy of letter of warning dated 08.03.1997 has been marked as Exhibit M-11. Copy of letter of warning dated 02.07.1997 for unauthorized absence from duty, as Exhibit M-12. In the year 1997 two increments of the workman were stopped which is revealed from document marked as Exhibit M-13.

7. In cross-examination the management witness stated that the Charge Sheet and Notice of enquiry were sent to the workman at his home address but he was unable to produce any document to show that the same were sent to the workman at his home address. The witness denied that the Notice of enquiry and Charge Sheet were not served upon the workman but admitted that he could not produce A/D Card to show that the service was made to the workman through registered post. In cross-examination the witness deposed that no reply was submitted by the workman in response to the 2<sup>nd</sup> Show Cause Notice.

8. Mr. Milan Kumar Bandyopadhyay, learned advocate for the dependent of the deceased employee argued that he management of the employer company dismissed the workman keeping him in the dark regarding the enquiry. It is argued that no Charge Sheet, Notice of enquiry, and 2<sup>nd</sup> Show Cause Notice were served upon the workman. The order of dismissal was not communicated to the workman, therefore the entire proceeding is arbitrary, illegal and in violation of principles of natural justice. It is urged that the order of dismissal is liable to be set aside and the dependent of the deceased employee are entitled to full back wages along with consequential relief.

9. Mr. P. K. Goswami, learned advocate for ECL in reply, argued that Mantu Ghosh was a habitual absentee and on earlier occasion he had been warned several times for his unauthorized absence without reasons and his increments were stopped time to time. It is argued that no satisfactory reply has been submitted by learned advocate representing the interest of the deceased workman. It is further submitted that Charge Sheet and three Notice of enquiry were issued to the workman under registered post at his home address at Vill: Kalipur, PO: Dakshinkhanda, PS: Andal, Dist.: Burdwan (West Bengal), but the workman did not respond the same.

10. Admittedly he remained absent from duty from 21.12.1997 without any intimation to the management on prior approval. A domestic enquiry was held ex-parte on 04.03.1998 where it was clearly stated that three Notice of enquiry were sent to the home address of the workman as mentioned in the Form 'B' Register and after giving sufficient opportunity, consistent with the principles of natural justice, the domestic enquiry was conducted ex-parte on 04.03.1998, on merit. A management representative Mr. A. B. Kora, Clerk, was examined by the Enquiry Officer who supported the case disclosed in the Charge Sheet. It is found that in the year 1995 the workman attended duty for 78 days, in the year 1996 for 127 days and in the year 1997 for 58 days only. Four punishment orders were also placed before the Enquiry Officer. It was concluded by the Enquiry Officer that the charge levelled against Mantu Ghosh stood proved beyond doubt. After the Enquiry Report were submitted before the competent authority on 04.03.1998 a 2<sup>nd</sup> Show Cause Notice was issued to the workman bearing No. CGM/JNR/PER/08/98/5152 dated 06/10.03.1998, wherein it was clearly mentioned that from the enquiry report it was evident that the charge against Mantu Ghosh has been established beyond doubt. Copy of Domestic Enquiry and Report was forwarded to the workman at his home address under registered post, granting him time to submit his explanation within three days from the date of receipt of the communication. After waiting for a considerable period, on 27.03.1998 the competent authority issued the letter of dismissal to Mantu Ghosh with immediate effect. The copy of the letter of dismissal has been produced as Exhibit M-8.

11. In the present case the workman as well as his dependents have taken a plea that Mantu Ghosh was under medical treatment at the Sub-Divisional Hospital, Asansol due to Tuberculosis. There was no occasion for the workman to file any medical document before the management as he was already dismissed from service on 27.03.1998 i.e. prior to his date of returning to his workplace on 12.04.1998. The workman admittedly remained absent from his duty from 21.12.1997 and did not think it necessary to inform the reasons of his absence to the management. It is true that the management could not produce the A/D cards or postal receipts in respect of Charge Sheet, Notice of enquiry, 2<sup>nd</sup> Show Cause Notice, and order of dismissal which were issued to the workman at his home address at Vill: Kalipur, PO: Dakshinkhanda, PS: Andal, Dist.: Burdwan (West Bengal). The documents which have been produced by the management show that they were sent to the workman at his home address. On one hand the management has produced an array of documents in connection with the Domestic Enquiry and various communication were made to the workman in different dates and on the other hand the workman who remained absent from duty for such a long period without intimation has simply raised question that he was unaware about the Domestic Enquiry and the order of dismissal is illegal. Having considered the various documents and evidence produced by the management witness, I have no hesitation to hold that the management of 1 and 2 Incline under Jhanjra Area of ECL had provided reasonable opportunity to the workman to participate in the enquiry proceeding and submit his representation against the findings of the Enquiry Officer after issuance of the 2<sup>nd</sup> Show Cause Notice. In view of the facts and evidence on record, I hold that there is no extenuating circumstance in favour of the workman and the management committed no illegality in holding the Enquiry Proceeding in respect of the charge of unauthorized absence of the workman for more than ten days and his habitual absence from duty. I hold that there is no merit in the case of the workman and find no reason for interfering with the impugned order of dismissal. Accordingly, the dependents of the dismissed workman are not entitled to any relief of back wages. The Reference case is accordingly dismissed on contest.

Hence,

### ORDERED

that the Industrial Dispute is dismissed on contest. An award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 10 जून, 2024

**का.आ. 1122.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स हिंदुस्तान शिपयार्ड लिमिटेड के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (37/2022) प्रकाशित करती है।

[सं. एल - 39025/01/2024- आई आर (बी-II)-18]

सलोनी, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1122.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.37/2022) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of M/s. Hindustan Shipyard Limited and their workmen.

[No. L-39025/01/2024– IR (B-II)-18]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 21<sup>st</sup> day of March, 2024

**INDUSTRIAL DISPUTE No. 37/2022**

Between:

Sri Seboco Chota,

D.No.28-45-1, Vadlapudi Post,

Near Mee Seva 2<sup>nd</sup> Line,

Kanithi RH Colony,

Visakhapatnam- 530 005.

.....Petitioner

AND

The chairman-cum-Managing Director,

M/s. Hindustan Shipyard Limited,

Gandhigram(P.O.),

Visakhapatnam – 530 005.

... Respondent

Appearances:

For the Petitioner : Ms. G. Manjula, Advocate

For the Respondent:

Representative

**AWARD**

The Government of India, Ministry of Labour by its order No. 8/5/2022-B1 dated 11.2.2022 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Sri Seboko Chota and their workman. The reference is,

**SCHEDULE**

“Whether the action of the Management of M/s. Hindustan Shipyard Limited, Visakhapatnam in dismissing the services of Sri Seboko Chota, Ex.Jr. Assistant w.e.f. 25.4.2018 is legal and justified or not? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 37/2022 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Record reveals that notice served on Petitioner but none present on behalf of Petitioner. It seems Petitioner do not want to pursue his case. Hence, a ‘No Claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 21<sup>st</sup> day of March, 2024.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the  
Petitioner  
NIL

Witnesses examined for the  
Respondent  
NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

Presiding Officer

नई दिल्ली, 10 जून, 2024

**का.आ. 1123.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (11/2012) प्रकाशित करती है।

[सं. एल - 39025/01/2024- आई आर (बी-II)-19]

सलोनी, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1123.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.11/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Indian Overseas Bank and their workmen.

[No. L-39025/01/2024- IR(B-II)-19]

SALONI, Dy. Director

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 27<sup>th</sup> day of March, 2024

**INDUSTRIAL DISPUTE L.C.No. 11/2012**

Between:

Sri G. Veenesh Babu,  
S/o G. Govinda Rao,  
R/o 1-3-748, Kawadiguda,  
Hyderabad.

.....Petitioner

AND

1. The Branch Manager,  
Indian Overseas Bank,  
Kukatpally Branch, HIG-493,  
Phase-VI, KPHB Colony,  
Hyderabad
2. The General Manager,  
Industrial Relations Department,  
Central Office, Chennai – 600 002.

....Respondents

**Appearances:**

For the Petitioner : M/s. J. Umamaheswara Rao and M. Madhusudhan, Advocates

For the Respondent: M/s. E. Madan Mohan Rao & M. Srinivas, Advocates

**AWARD**

Sri G. Veenesh Babu, who worked as Temporary Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents seeking for declaring the proceeding dated 1.7.2010 issued by Respondent as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

**2. The averments made in the petition in brief are as follows:**

The Petitioner submits that, he was appointed by the 1<sup>st</sup> Respondent as Temporary Messenger w.e.f. 1.1.2005 and he served in the Organization to the utmost satisfaction of his Senior Officers and that his name was also sponsored by the Employment Exchange, after his name was sponsored from the Employment Exchange an interview was also conducted during the month of July, 2008 and he was successful in the interview and he was informed that his services will be regularized as Messenger, after getting the approval from the Central office i.e., the 2<sup>nd</sup> Respondent. It is further submitted that, during the year 2008 a Certificate was issued by the 1<sup>st</sup> Respondent to enable the Petitioner to get employment in other branches on regular basis. In fact, the 1<sup>st</sup> Respondent has engaged the Petitioner in their extension counter i.e. Nalanda Branch Extension, which was subsequently regularized. In fact, the 1<sup>st</sup> Respondent has extracted services of the Petitioner till June, 2010 by paying his salary from their miscellaneous account. The Petitioner was asked not to attend his duties w.e.f. 1.7.2010, without assigning any reason and in violation of the provisions of Industrial Disputes Act, 1947. In fact, he filed an application before the Regional Labour Commissioner (Central) but, no avail. It is submitted that, each and every employer is following the total unfair Labour Practice by following hire and fire system by taking undue advantage of the Judgment of Hon'ble Supreme Court in Uma Devi Vs. State of Karnataka (2006 (4) SCC 1) wherein it was held that Workman cannot be regularized if their appointments were not made in accordance with the law. Thus, it is clear that, the observations and guidelines prescribed by the Hon'ble Supreme Court are about the Public Employment but not about the Employment / Problems covered under Industrial Dispute Act. Moreover, our Country's economy is mainly based on manpower but not on technical power, but the Industries are taking undue advantage by adopting the unfair labour practice, thus depriving the workers from their legal entitlements prescribed under Industrial Disputes Act. It is further submitted that, as far as the sponsoring the name from the Employment Exchange, it is not mandatory that the Petitioner should be sponsored from the Employment Exchange. In the instant case the Petitioner was engaged by the Respondent on temporary basis and also got interviewed by the Respondent through Employment Exchange, even his application along with certain understandings was also obtained by the 1<sup>st</sup> Respondent. In spite of these things his case was not considered for regularization, instead his services were terminated w.e.f. 1.7.2010. It is submitted that, the Respondents may take the shelter Hon'ble Supreme Courts Judgment on the point non-reference of the Petitioner's name from the Employment Exchange (Uma Devi's Judgment), but they cannot violate the provisions of Employment Exchanges Act, 1959. As per this Act under Section 44(4) on Employer to recruit the persons sponsored by the Employment Exchange. In view of the above it is clear that the Respondent cannot support his stand of termination of the Petition, from service as legal, and is violative of the law and on the following points:

- a) The Petitioner was engaged for a period of more than 5 Years
- b) His name was sponsored by the Employment Exchange while he was in service during the year 2008.
- c) Even he was permitted to attend the interview in July, 2008
- d) His services were terminated through an oral order w.e.f. 1.7.2010 without assigning reason.
- e) Even the post is still vacant and they getting the work done by getting people from other branches namely Ratnakar and Lakshmi and some other people whose names and particulars will be furnished at the time evidence.

Thus, it is clear that, the services of the Petitioner as the Temporary Messenger were terminated in violation of the provisions of Section 25 (F) and Section 25 (N) of Industrial Disputes Act, 1947. In view of the above, it is prayed to set aside the oral termination order dated 1.7.2010 by directing the Respondents to reinstate the Petitioner into their services with back wages and all other consequential and service benefits entitled under Industrial Disputes Act.

**3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:**

It is submitted that the Applicant was appointed by the 1<sup>st</sup> Respondent as Temporary Messenger w.e.f. 01.01.2005 and he served in the organization to the utmost satisfaction of his senior officers is incorrect. The Workman was not appointed as Temporary Messenger in the bank at any point of time. As such, the question of his working to the utmost satisfaction of his senior officers does not arise. It is submitted that it may be true that the name of Workman was sponsored by the Employment Exchange and he was called to appear for an interview but his claim that he was successful in the interview is not true as successful candidates are not denied employment and have been recruited

by the bank. His claim that he was informed that his services will be regularised as messenger is misconceived and incorrect and it is further submitted that Respondent bank never assures such things. It is further submitted that the Petitioner services were terminated by the 1<sup>st</sup> Respondent without assigning any reason is misconceived and incorrect as the Workman was never appointed by the Respondent bank in any capacity, question of termination does not arise. The averments that the Applicant was selected and appointed as a Messenger in four branches is also incorrect. The Applicant was never selected, never appointed as Messenger in the Respondent bank. The allegation that the 1<sup>st</sup> Respondent has engaged the Petitioner in their extension counter i.e., Nalanda branch extension, which was subsequently regularized is also incorrect. The bank also deny the issuance of any certificate as the bank never issued any certificate to get employment in other branches on regular basis. The allegation that the Workman was asked not to attend his duties w.e.f. 01.07.2010 without assigning any reason and in violation of the provisions of Industrial Disputes Act, 1947 is incorrect. It is submitted that each and every employer is following the total unfair Labour practice by following hire and fire system by taking undue advantage of the Judgment of Hon'ble Supreme Court in Uma Devi Vs. State of Karnataka (2006 (4) SCC 1) is misconceived. The reference to the other orders of the Hon'ble courts have no relevance to the present dispute. It is submitted that Respondents deny having engaged the Petitioner for a period of more than 5 years. It may be true that he might have attended the interview in 2008, however, appearing for an interview does not confer a right to the member for employment. As the Applicant/Petitioner/ Workman not even employed by these Respondents, terminating his services does not arise and Respondents have no role to play. It is denied that the post of Messenger at Kukatpally is vacant at present and that a regular full time messenger is attached to the branch. It is submitted that the application of the Applicant/Workman is devoid of merits and that the application itself is not maintainable under I.D. Act, 1947 and also without jurisdiction and Respondents have not violated any provisions of the I.D. Act, 1947 as alleged by the Petitioner. Therefore, it is prayed that the petition be dismissed.

4. During the hearing, the claimant workman has testified himself as WW1 and exhibited the documents Ex.W1, service certificate issued by first Respondent dated 8.6.2011 and application to ALC(C) dated 6.1.2012. On the other hand, the Respondent Management has examined witness MW1 and exhibited the document Ex.M1.

5. Both parties have filed written arguments.

6. **On going through the rival pleadings of both the parties and arguments advanced, the following points emerge for determination:-**

I. Whether the action of the Respondent Bank in terminating the services of the workman by oral orders dated 1.7.2010 is legal and justified?

II. To what relief is the Petitioner entitled?

**Findings:-**

7. **Point No.I:** The claimant WW1 in his sworn testimony has stated that he joined the services of the Respondent as a temporary Messenger on 1.1.2005, through due process and ever since the date of joining he had worked continuously with best of his ability and utmost satisfaction of his superiors till his services were terminated by first Respondent on 30.6.2010 without assigning any reason. Further, WW1 testified that on 30.6.2010 he was informed orally not to attend duties from 1.7.2010 and while terminating his services orally neither he was issued one month pay in lieu of the notice nor paid with compensation. Petitioner claimant submitted that his oral termination dated 1.7.2010 from service is illegal and in violation of the provision of Sec.25F of the ID Act and he is liable to be reinstated into the service with continuity of the service, attendant benefits and full back wages.

8. On the other hand Respondent has refuted the contention of the Petitioner as stated by WW1. Respondent witness MW1 has testified in his sworn testimony that the Petitioner workman was never appointed as a temporary messenger in the bank at any point of time and he was never selected nor appointed as a messenger in the Respondent bank. Further, MW1 states that the Petitioner workman had worked only as a temporary messenger during the period 2005-2008 on daily wages basis and he never worked at Extension Counter at Nalanda Branch, nor in other four branches as alleged in the application. Further, MW1 states that and the Respondent bank has not violated any provisions of the I D Act, 1947. Further, witness MW1 testifies that Respondent has not engaged the Petitioner for a period of more than five years and he was never selected in any interview or nor appointed as a regular employee of the Respondent bank and as such, the question of termination from service does not arise. Further, witness states that the Petitioner has not filed any single document to show that he was selected for the post of Messenger. Thus, from the above statement of the MW1 it is deducible that the witness stood firm regarding his statement of chief affidavit and nothing contradictory has been elicited in the cross examination. Thus, the claim of the Petitioner workman has been refuted by the Respondent witness MW1.

9. The burden of proof lies on the Petitioner workman to prove the plea that his oral termination is in violation of the provision of Sec. 25F of the Act. In this context relevant provision of Sec.25F of the I.D. Act, 1947 is extracted below:-



**Section 25F provides:-**

*Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

*(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:*

*(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and*

*(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].*

*Compensation to workmen in case of transfer of undertakings.*

**Section 25B defines the term continuous service which provides**

*Definition of continuous service.- For the purposes of this Chapter,--*

*(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;*

*(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--*

*(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--*

*(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and*

*(ii) two hundred and forty days, in any other case;*

Further, in the case of **Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Hon'ble Apex Court have laid down the principle regarding burden of proof to prove contravention of provision of Sec.25 F of the Act:-**

*"It was the case of the workman that he had worked for more than 240 days in the year concerned. This claim was denied by the appellant. It was for the claimant to lead evidence to show that he had worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that in fact the claimant had worked for 240 days in a year. These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the workman had worked for 240 days as claimed."*

**In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195) Hon'ble Supreme Court of India have held "the burden was on the workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In M.P. Electricity Board v. Hariram (2004 (8) SCC 246) the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously .."**

**In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held that "the initial burden of proof was on the workman to show that he had completed 240 days of service."**

**In the case of Mohan Lal v. Management BEL 1981 SCC 225, the Hon'ble Apex Court have held that:**

*"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act. he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."*

*"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in*

clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

In view of Law laid down by Hon'ble Apex Court as discussed above, the burden of proof to prove the fact, that workman had worked for 240 days continuously in a calendar year just preceding from the date of termination lies on the workman. Now let us examine whether workman herein has succeeded to discharge his burden of proof.

10. Petitioner Witness WW1 in his sworn testimony has reiterated averments made in the claim statement. WW1 was cross examined by the Respondent counsel and in his cross examination witness states,

*" I have only filed the service certificate under Ex.W1 and I have not filed any other document regarding my appointment under the Respondent. I have not filed any document to show that I was selected in the interview conducted in the year 2008. I have not filed any document or any letter of the bank enabling me to work under any other branches of the Respondent bank. I have not filed any salary certificate issued by the Respondent bank in my favour. Further, witness WW1 states, I have orally terminated from the Respondent's bank from 1.7.2010. It is a fact on 17.10.2012 I had submitted a representation to the Respondent bank, the xerox copy of the same is marked as Ex.M1. It is a fact that in Ex.M1 I have mentioned that I have worked under Respondent 's bank from 2004 to 2009. It is a fact that I have not mentioned in my representation vide Ex.M1 about my oral termination in the year 2010 and in my representation I have only requested for a permanent job. It is fact that as per Ex.W1 I was working from 2005 to 2008 in the Respondent's bank on daily wages basis. It is fact that as per Ex.W1 I was working under the Respondent bank from 2005 to 2008. It is not correct to say that I am not an employee under the Respondent bank and that the question of my termination does not arise."*

Therefore, from the statement of WW1 in cross examination it delineates that the claimant Petitioner had worked in the Respondent bank from 2005-2008 on daily wages basis as per Ex.W1. But, He has not filed any appointment letter or salary certificate or an other document pertaining to his appointment in the Respondent bank against any post. Therefore, in absence of such documentary evidence, the claim of Petitioner that he was appointed as a temporary messenger in the Respondent bank can not be accepted. However, whatever documents has been submitted by Petitioner in evidence does not pertain to his appointment in Respondent bank as he claims. Ex.W1 goes to show that the testimonial work certificate has been issued by the senior Manager of the Bank which only certify that the claimant Petitioner Sri G. Veenesh Babu has worked as a temporary Messenger during the period 2005-2008 in the Kukatpally branch of Respondent bank on daily wages. This document does not disclose that the Petitioner was ever appointed on any post of temporary Messenger in the Respondent bank. Apart from the Ex.W1, Ex.W2 is the representation addressed to the Asst. Labour Commissioner(C). Petitioner has moved it to ALC(C) regarding his oral termination from the service by the Respondent bank. Except above mentioned two documents, no other documentary evidence has been filed by the Petitioner to fortify his claim that he was appointed by the Respondent as temporary Messenger w.e.f. 1.1.2005. In order to prove his termination in contravention of the provisions of Sec.25F burden of proof lies upon the shoulder of the Petitioner that he had worked for 240 days continuously in the Respondent bank just preceding to the date of his termination from the service in a 12 months of calendar year. But the Petitioner failed to adduce any evidence to this effect. Therefore, the contention of the claimant Petitioner that he has been terminated in contravention of the provisions of Sec.25F of the ID Act, 1947 is untenable and not acceptable. However, the Petitioner in his claim statement states that he had worked in the Respondent bank as messenger for the period from year 2005 to 2008. Whereas the Respondent has filed Ex.M1 which is the copy of the application dated 17.10.2012 addressed to the Regional Office of Indian Overseas Bank by the applicant Petitioner and that has been admitted by WW1 in his cross examination. It is quite surprising on going through the application that the applicant has not mentioned regarding his oral termination in his application and moreover has prayed for his appointment as a permanent employee in the branch on the basis of the ground that he had worked in Respondent bank during the period from 2004 to 2009.

9. Thus, claim of Petitioner regarding duration of work in Respondent bank is contradictory as made in claim statement. On going through evidence on record, I am of the view that Petitioner failed to establish his claim by his evidence that his termination from service is in contravention of provision of sec.25F of the I.D. Act, 1947. Therefore, action of Respondent in terminating the services of Petitioner is legal and justified.

This Point No.I is answered accordingly.

**10. Point No.II:** In view of the fore gone discussion, and law laid down by the Hon'ble Apex Court, as discussed in preceding paragraph I am of the view that the Petitioner is not entitled to any relief and his petition is liable to be dismissed.

Thus, Point No.II is answered accordingly.

#### AWARD

In view of the fore gone discussion and finding at Points No. I & II, I am of the considered view that the action of the Respondent Bank in terminating the services of the workman by oral orders dated 1.7.2010 is legal and



justified. Hence, the Petitioner is not entitled to any relief as prayed for. As such, the petition filed by the Petitioner deserves to be dismissed as devoid of merits. Therefore, the petition is dismissed.

Award is passed accordingly. Transmit.

Dictated Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 27<sup>th</sup> day of March, 2024.

IRFAN QAMAR, Presiding Officer

#### Appendix of evidence

Witnesses examined for the

Petitioner

WW1: Sri G. Veenesh Babu

Witnesses examined for the

Respondent

MW1: Sri Jyoti Prakash Dutta

#### Documents marked for the Petitioner

Ex.W1: Photostat copy of service certificate of WW1 dt.8..2011

Ex.W2: Photostat copy of representation of WW1 to ALC(C) dt.6.1.2012

#### Documents marked for the Respondent

Ex.M1: Photostat copy of representation from WW1 to Respondent dt.17.10.2012

नई दिल्ली, 10 जून, 2024

**का.आ. 1124.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार के कमांडेंट, 27, फील्ड गोला बारूद डिपो पिन-909427 सी/ओ 56 एपीओ, मेजर ऑफिसर कमांडिंग, 25 पोर्टर कंपनी, पिन 909427 सी/ओ 56 एपीओ, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (44/2019) प्रकाशित करती है।

[सं. एल-12025/01/2024- आई आर (बी-1)-159]

सलोनी, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1124.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.44/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of The Commandant, 27, Field Ammunition Depot PIN- 909427 C/O 56 APO, The Major Officer Commanding, 25 Porter Company, Pin 909427 C/O 56 APO, and their **Workmen**

[No. L-12025/01/2024- IR(B-I)-159]

SALONI, Dy. Director

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

#### CUM-LABOUR COURT, JAIPUR (RAJASTHAN)

Presiding Officer – Radha Mohan Chaturvedi

I.D No. – 44/2019

(Ref. No. AJ-8/2/40/2019-I.R)

**Dated: 23.08.2019**

Gori Shankar S/O Shri Bihari Lal aged about 30 years resident of Chaukhuti Phatak, Bikaner

**APPLICANT**

#### Verses

1. The Commandant, 27, Field Ammunition Depot PIN- 909427 C/O 56 APO.
2. The Major Officer Commanding, 25 Porter Company, Pin 909427 C/O 56 APO.

**-RESPONDENTS**

Present: Shri Santokh Singh advocate, for Applicant.

None is present for Respondents.

### AWARD

**Dated: 20.12.23**

1. The Deputy Chief Labour Commissioner (Central Ajmer) in exercise of powers conferred under clause (d) of sub section (1) and sub section (2 A) of section 10 of the Industrial Dispute Act 1947 (In short “The Act”) and issuance of the notification number S.O. 1936 (E) dated 10<sup>th</sup> June 2019 had referred the following industrial dispute for adjudication to this tribunal.

**“Whether the action of the Major, Officer Commanding, 25, Porter Company Pin No. 909427 C/o-56 APO in retrenching the services of Shri Gori Shankar S/o Shri Bihari Lal, Porter w.e.f. 06.03.2003 is legal and justified? If not, to what relief the concerned workman is entitled to, and what directions are necessary in the matter?”**

2. The applicant filed his statement of claim on 24.01.20 before this tribunal. Summarized contentions of applicant are as under.

3. The applicant was appointed by the major officer commanding, 25 porter company, as a porter on 25.05.2002 on daily wages basis under “Parakram Operation”. The respondent no. 2 has issued a certificate of experience on 05.03.2003 mentioning that the applicant has served as porter during “Operation Parakram” from 25.05.2002 to 03.03.2003 but from 06.03.2003 onwards he was not allowed to work and was informed that his services as porter have been retrenched. Services of applicant has been retrenched illegally without giving any show cause notice. The applicant has worked for more than 240 days continuously and thus has become a regular workman of 25 porter company. His retrenchment from services without following the provisions of the act is illegal and violating of section 25-F of the Act. The respondent neither circulated the seniority list of porters nor followed the seniority order. This act of respondent is violating of section 25-G of the Act. The respondent did not follow the principle of last come first go and thus violated the provision of section 25-G of the act. The applicant had made so many requests to the respondent to continue his services but all in vain. The respondent have terminated services of the applicant illegally without providing any opportunity to defend. Therefore the statement of claim may be allowed, the retrenchment of applicant be quashed and the applicant be reinstated and ordered to be allowed all benefits of regular pay scale.

4. On 24.02.20 notices issued against respondent were found well served as per track record available but no one appeared on behalf of respondent. Therefore ex-parte order was passed against respondent no. 1. similarly on 18.01.21 ex-parte order was passed against respondent no. 2 also due to its absence without any reason.

5. The applicant has examined himself in its evidence and exhibited annexures A/1, A/2 and A/3 as documentary evidence.

6. On 12.12.23 None appeared on behalf of respondents. Therefore arguments of applicant heard ex-parte and considered the evidence available on record.

7. Learned counsel for applicant during his arguments has stressed upon, on-oath statements of applicant Gori Shankar which has not been controverted by the respondents and drew my attention towards exhibit A2 the experience certificate issued to applicant by the respondent. He has contended that respondent has admitted that the applicant Gori Shankar has worked during “Operation Parakram” from 25<sup>th</sup> May 2002 to 3<sup>rd</sup> March 2002. Thus the applicant has completed more than 240 days continuous service under respondent. According to provisions of section 25-B of the Act applicant has completed continuous service of one calendar year preceding to the date of termination of the applicant. He has further contended that respondent had not issued any notice prior to termination of service and not paid any notice pay in lieu of notice and also not paid retrenchment compensation as per provisions of the Act. Respondents have not followed the provision of section 25-G and H by issuing seniority list and giving preference in service upon the juniors of applicant.

8. A judgement of Honourable MP High Court Sachiv Krishi Upajmandi Samiti Sanawad Vs Mahendra Kumar((2004) 101 FLR 176) has been cited by the applicant in support of its arguments.

9. I have given thoughtful consideration to the arguments, and ratio propounded in the judgement.

10. First of all it is to be made clear that the burden of proof to prove that the applicant workman has worked more than 240 days in one calendar years preceding the date of termination lies upon the workman concerned. The applicant has in its evidence exhibited annexure A-2 the experience certificate issued by major officer commanding 25 porter company. This certificate clearly discloses that this experience certificates was issued on the basis of services rendered by the applicant for a limited period which was scheduled for “Operation Parakram” from December 2001 to March 2003. The applicant has served during this operation from 25<sup>th</sup> May 2002 to 3<sup>rd</sup> March 2003. It is pertinent to note that when an operation is scheduled to commence a date of termination of the activities

of operation concerned is also fixed. Such type of operations are not continuously held but scheduled for a task for a limited or determined period, as is clear from exhibit annexure A-2 in which the duration of “Operation Parakram” has been mentioned as “December 2001 to March 2003”. It means during this limited period, to perform the work of porter, services of applicant were hired for a limited period which was scheduled to end by March 2003.

11. As per definition of retrenchment, as given under section 2 (oo) “Retrenchment” means the termination by the employer of the service of the workman for any reasons what so ever, otherwise than as a punishment inflicted by way of disciplinary action but does not include- voluntary retirement of the workman or retirement on reaching the super-annuation, if the contract of employment between the employer and the workman concerned, contains a stipulation in that behalf, or termination of the services of the workman as a result of non renewal of the contract of the employment between the workman and the employer on its expiry, or of such contract being terminated under stipulation in that behalf, contained there in. A bare perusal of Annexure A-2 certificate clearly expresses that the “Operation Parakram” was for a limited (fixed) period and a stipulation is impliedly made that the services are taken for a limited period of the operation concerned. The term of operation was to expire by March 2003. Thus the services rendered by the applicant as per this experience certificate (Annexure A-2) was for a limited period up to March 2003. In this factual scenario the termination of services with effect from 06.03.2003 was not a retrenchment, as per provisions contained in section 2(oo)(bb) of the Act.

12. As the termination of services of the applicant was not retrenchment under the provisions of section 2(oo)(bb) of the Act the provisions of section 25-F of the Act are not attracted for compliance by the respondent. Though the applicant has completed 240 days of service in a calendar year.

13. Hon’ble MP High Court in its judgement cited by the applicant has propounded that when it is concluded on the basis of facts and evidence that respondent workman has worked continuously for more than 240 days in one calendar year and no retrenchment compensation was paid prior to termination, such retrenchment is illegal and the workman in entitled to take benefits of reinstatement in service and back wages. The ratio of this judgement is not to be followed as the facts of the dispute in hand are not similar to this judgement. The termination of service of applicant does not appear to be a retrenchment under section 2(oo)(bb).

14. Considering this state of affairs and evidence particularly exhibit annexure A-2, the termination of service of applicant with effect from 06.03.2003 is found legal and justified as this tenure of service of applicant was for a limited period of “Operation Parakram” which was scheduled from December 2001 to March 2003. The applicant is therefore not entitled to get any relief from the respondents.

15. The referred dispute is adjudicated and answered as above. Copy of the Award be sent for publication under the provision of section 17(1) of the act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 10 जून, 2024

**का.आ. 1125.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एन.के.जी. इंफ्रास्ट्रक्चर लिमिटेड (ठेकेदार) के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, 2 दिल्ली के पंचाट (08/2018) प्रकाशित करती है।

[सं. एल -12025/01/2024- आई आर (बी-I)-160]

सलोनी, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1125.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.08/2018) of the *Cent.Govt.Indus.Tribunal -cum- Labour Court No - 2 Delhi* as shown in the Annexure, in the industrial dispute between the management of M/s N.K.G. Infrastructure Ltd. ( Contractor ) and their workmen.

[No. L-12025/01/2024— IR(B-I) -160]

SALONI, Dy. Director

#### ANNEXURE

**BEFORE SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-CUM-  
LABOUR COURT NO-II, NEW DELHI**

**I.D. No. 08/2018**

**Sh. ShambhuNathYadav S/o SagunYadav**

Versus

**1. M/s NBCC Ltd. (P.E)**

Through its Chairman  
NBCC House Lodhi Road,  
New Delhi-110003

**2. M/s N.K.G. Infrastructure Ltd. (Contractor)**

Through its Managing Director,  
1107 Kailash Building, 26 K.G. Marg,  
New Delhi-110001.

**AWARD**

This is an application U/s 2A of the I.D Act filed by the claimant against his illegal termination. It is the case of the workman that he had been working at the post of mechanic with the management at the last drawn salary of Rs. 20,000/- per month. He did his work well and has not given any chance of making any complaint to the management nor he was charged while he was in service. Since beginning management has not been providing any legal facility i.e. appointment letter, I-card, Salary slip, Leave record and Bonus etc. When the workman had raised his voice against the management, his services was terminated without assigning any reason on 10.06.2017 which is violation of labour law. It is further his case that he had sent the demand letter asking the management to take him on job, however management had not replied nor he was taken on job. He had filed his claim before the conciliation officer, however, conciliation become failure. Hence, he has filed his claim with the prayer that he be reinstated with full back wages since the date of termination, he is jobless.

Respondent-1 had filed the reply and denied the employer and employee relationship between the workman and him. He submits that the management has awarded the contract to the management-2 for hiring of the manpower. He submits claim is liable to be dismissed. Management-2 had not appeared and his right to file the W.S was closed vide order dated 07.08.2018.

Rejoinder has also been filed by the claimant to the W.S of the management-1 wherein, he had denied the averment made by the M-1 and affirmed the averment made in the claim.

From the pleadings of the parties, vide order dated 30.08.2018 following issues have been framed:

1. Whether the termination of the claimant by the management is illegal and against the provision of I.D. Act ?
2. Whether the claim petition is not maintainable against management in view of various preliminary objections?
3. Whether the claimant is entitled for reinstatement into service with back wages as claimed and litigation expenses.

In order to prove his case, workman had tendered his affidavit in evidence, however, thereafter, workman had stopped him coming to the court for the purpose of cross-examination. Vide order dated 22.02.2023 evidence tendered by the claimant stood expunged.

In the absence of any evidence on record, workman claim is resulted into failure. Hence, his claim is stand dismissed. Award is accordingly passed. A copy of this award is sent to the appropriate government for notification of U/S 17 of the I.D Act. File is consigned to record room.

Date 14<sup>th</sup> March, 2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 10 जून, 2024

**का.आ. 1126.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.सी.एल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर/11/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[स. एल-22012/04/2022-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1126.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**LC/R/11/2022**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **N.C.L.** and their workmen, received by the Central Government on **06/06/2024**

[No. L-22012/04/2022– IR (CM-II)]

MANIKANDAN. N , Dy. Director

**ANNEXURE**  
**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,**  
**JABALPUR**

**NO. CGIT/LC/R/11/2022**

Present: P.K.Srivastava

H.J.S..( Retd)

The Joint General Secretary,

National Coal Mines Workers Union(INTUC),

Regional Office, Chandameta,

Dist. Chhindwara – 480447

Workman

Versus

The Sub Area Manager,

Nehria Sub-District, Vekoli,

Pench Area, District Chhindwara(M.P.)

Management

**A W A R D**

**(Passed on this 22<sup>nd</sup> day of May-2024.)**

As per letter dated 02/02/2022 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-22012/04/2022 (IR(CM-II)) dt. 02/02/2022. The dispute under reference related to :-

**“क्या, उपक्षेत्र प्रबन्धक, नेहरिया उपक्षेत्र वेकोलि, पेंच क्षेत्र, जिला छिंदवाड़ा (मध्य प्रदेश) द्वारा कामगार श्री सरवन कुमार ईले फिटर कैटेगरी –VI ( टोकन नंबर – 189) को, उनसे जूनियर कामगारों को पदोन्नत कर, उन्हें ( श्री सरवन कुमार को ) असिस्टेंट फोरमेन इले ग्रेड सी में पदोन्नत नहीं किया जाना न्यायोचित है? यदि नहीं, तो श्री सरवन कुमार, क्या अनुतोष पाने के हकदार है?”**

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of the allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.

**AWARD**

**In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.**

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 22/05/2024

नई दिल्ली, 10 जून, 2024

**का.आ. 1127.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल.के प्रबंधन के संबंधित के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर सी/04/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[सं. एल-22013/01/2024-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1127**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**LC/RC/04/2017**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **S.E.C.L.** and their workmen, received by the Central Government on **06/06/2024**.

[No. L-22013/01/2024— IR (CM-II)]

MANIKANDAN. N, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

**NO. CGIT/LC/RC/04/2017**

Present: P.K.Srivastava

H.J.S..(Retd)

Nek Mohammad S/o. Late Shri Baitullah

Mechanical Fitter, Category-VI at Regional

Workshop, Korea Colliery of SECL, Chirimiri Area

PO : Katkona, Distt.- Korea (CG)

Workman

Versus

The Chief Manager (Electrical & Mechanical)

SECL, Regional Workshop, Korea Colliery, Chirimiri Area

District Korea (CG)

The General Manager

SECL, Chirimiri Area, PO: West Chirimiri Colliery

Distt.- Korea (CG)

Management

#### (JUDGEMENT)

**(Passed on this 29<sup>th</sup> day of April 2024)**

The workman Nek Mohammad has filed this petition U/S. 2-A of Industrial Disputes Act, 1947 (in short the 'Act') against termination of his services on 27.04.2016 by management. According to the petitioner he was born in Village Dudahi, P.S. Bishunpura, District Kushi Nagar (UP). His father's name was Iqbal but he was adopted by Baitullah R/o. Korea Colliery (MP), now in Chhattisgarh in the year 1965 and adoption date was executed between his biological parents and adoptive parents on 05.05.1965. He was married with daughter of his adoptive parents. He was given temporary appointment in 1980 as substitute mazdoor being dependant of Baitullah. His services were regularized on 11.04.1981, he worked for 34 years when in 2008, he was served a notice by management with a complaint of one Satyapoojan Mishra that he got appointment as substitute mazdoor on fake documents claiming himself to be son of Baitullah whereas he was son of Iqbal. He submitted his reply and proceedings were dropped by management. Again he was issued same notice on 10.09.2014. He submitted his reply on 13.09.2014. A charge sheet dated 04.06.2015 was issued by management under Clause-26.1 & 26.9 of Certified

Standing Orders. He filed his reply dated 07.06.2015 to the charge sheet wherein he stated that he was adopted by Baitullah by the consent of his biological parents and since then, he was member of Baitullah family as his adopted son. He used name of his adoptive father since thereafter in every record. The management decided to conduct an enquiry to the charges which was conducted not in accordance with the principles of natural justice. The Enquiry Officer wrongly recorded a finding that charges were proved. The Disciplinary Authority wrongly accepted the enquiry report and illegally ignored his representation on the enquiry report thus passing the impugned punishment of termination of his services, which is against law. The workman has thus prayed that holding the impugned punishment against law, he be reinstated with back wages and benefits.

The management has defended its action and impugned order with a case that there was no illegality committed during enquiry, the charges were rightly held proved and punishment was also proportionate to the charges.

Following issues were framed on the basis of pleadings :-

1. *Whether the Departmental enquiry conducted is legal and proper or not ?*
2. *Whether the charges are proved from the enquiry ?*
3. *Whether the punishment is disproportionate to the charge ?*
4. *Relief to which the workman is entitled ?*

Issue No.-1 was taken as preliminary issue and was decided holding the departmental enquiry proper and legal. This order is part of this Award.

Parties were granted opportunity to lead evidence on remaining issues. No evidence was adduced by any of the parties.

I have heard argument of learned Counsel for management. None appeared for workman. No written argument has been filed by the any of the parties. I have gone through the record as well.

#### **Issue No.-2:-**

As it comes out from the perusal of enquiry papers that defense of the workman during the enquiry, with reference to the charges was that he was adopted by Baitullah. He produced some unregistered adoption document also during the enquiry. Since he is a Muslim, his personal law do not recognize adoption. Hence, any so called adoption will not change his parentage because such an adoption has no force of law. Secondly, there is also evidence on record collected during the enquiry that at the place of his biological parents, he had mentioned his biological parents in Government documents maintained there. Hence, in the light of these facts, the finding of the Enquiry Officer cannot be faulted in law or fact and is affirmed. Issue no.-2 is answered accordingly.

#### **Issue No.-3 & 4:-**

Since these issues are inter connected, they are being taken together.

The charges provide maximum punishment of termination /dismissal. Since, the workman got employment as substitute labour being dependant of his so called adoptive parents which he was not, his appointment was void as it was obtained by concealment of material facts. Hence, the punishment also cannot be held excessive to the charge.

Consequently, the workman is held entitled to no relief.

Issue No.-3 and 4 are answered accordingly.

In the light of above discussion and findings, following Award is passed.

#### **AWARD**

Petition dismissed. No order as to cost.

DATE:- 29/04/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 जून, 2024

**का.आ. 1128.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर/40/2017)को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[सं. एल-22012/96/2017-आई.आर- (सी.एम-II)]

मणिकंदन.एन, उप निदेशक



New Delhi, the 10th June, 2024

**S.O. 1128.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**LC/R/40/2017**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **S.E.C.L.** and their workmen, received by the Central Government on **06/06/2024**

[No. L-22012/96/2016— IR (CM-II)]

MANIKANDAN. N , Dy. Director

### ANNEXURE

#### THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/40/2017

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Shyamlal Baiga

S/o. Late Sukhdev Baiga

Through Secretary, Janta Mazdoor Sangh

O/o. B-36, Store Complex, Amradandi,

PO: Amlai, Colliery, Distt.- Shahdol (MP)

Workman

Vs

The General Manager & 2 other

Johilla Area SECL

PO: Naurojabad, Distt.- Umariya (MP)

Management

### (JUDGEMENT)

(Passed on this 30<sup>th</sup> day of April 2024)

As per letter dated 18/04/2017 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/96/2016 IR(CM-II) dt. 18/04/2017. The dispute under reference relates to:

“1. श्री श्यामलाल बैगा पिता स्व. सुखदेव बैगा, भूतपूर्व पी.आर. लोडर (टोकन नं. 1591 सी.एम.पी.एफ. नं. JBP/54/1625) से चपहा कॉलरी एसईसीएल का खान प्रबंधक, चपहा कॉलरी, एसईसीएल द्वारा चपहा कॉलरी से पिपरिया कॉलरी में मौखिक रूप से स्थानांतरण करना तथा पिपरिया कॉलरी प्रबंधन द्वारा उन्हें ज्वाइन न करने देना (जिस कारण से वह आज तक भटक रहे हैं) क्या उचित है ? यदि नहीं तो श्री श्यामलाल बैगा पिता स्व. सुखदेव बैगा क्या अनुतोष पाने का हकदार है ?

2. श्री श्यामलाल बैगा पिता स्व. सुखदेव बैगा को प्रबंधन, साउथ ईस्टर्न कोल फील्ड्स लिमिटेड द्वारा संपूर्ण वेतन सहित सेवा में पुनर्स्थापित न किया जाना क्या उचित है ? यदि नहीं तो श्री श्यामलाल बैगा पिता स्व. सुखदेव बैगा क्या अनुतोष पाने का हकदार है ?”

After registering a case on the basis of the reference, notices were sent to the parties and were served. Parties appeared and filed their respective statements of claim and defense.

**According to the workman union**, the workman Shyamlal Baiga was appointed with the Management on 13.08.1989 and worked on the post of Loader Category-II under Chapaha Colliery, the attendance clerk informed him that he was transferred and directed him to meet the Manager of Colliery. He went to the Manager and requested the Manager to give him transfer order which he was not given and Manager directed him to collect the transfer order after sometime. Thereafter, he went several times to the Manager and requested him to handover the transfer order he was not given any transfer order. He kept attending his work place and as last resort, he went to management with a letter on 11.12.2004 and requested the management to take action in his matter but management refused to receive his letter, hence he sent it on 11.12.2004 by registered post. Management took no action on his letter. He again contact the General Manager who directed him to collect his transfer order from the Colliery Office. Thereafter, he contacted the Manager at Colliery and requested him to take him back on duty or dismiss him from services if they are unable to take him on duty. He was orally informed that he could not be taken back on duty and he has been removed from services. He was not issued nor was he given any termination order inspite of his request



to provide the termination order. According to the workman, he was removed from services without giving him opportunity of hearing which is arbitrary and unjust. The workman side has thus prayed that setting aside his termination order, he be held entitled to be reinstated with back wages and benefits.

**In its written statement of defense, the management** has taken a case that the workman last worked at Umariya (Chapaha) Colliery in 1993 as claimed by him. In fact, he was initially appointed at Birsinghpur Colliery SECL on 13.08.1989, he was transferred from Birsinghpur Colliery to Chapaha Colliery. He was transferred on 01.07.1994 to Pipariya Colliery vide order dated 01.07.1994 and was relieved on 04.07.1994 with a direction to report for duty at the place of his transfer Pipariya Colliery. He never reported at Pipariya Colliery on his transfer. His whereabouts were not known he absented thereafter, hence management initiated disciplinary proceedings against him for the charge of unauthorized and willful absence, which is a misconduct in the Certified Standing Orders. He did not participate in the enquiry though notice of the enquiry was sent to him on his residential address maintained in his service records.

According to management, in fact the workman himself abandoned from the service, hence he was removed from service. It is further the case of management that the date of superannuation of the workman was 31.05.2025, he raised the dispute after about 20 years of from his absence, hence his claim is barred by unexplained delay and laches on his part. Management has accordingly requested that the reference be answered against the workman.

In evidence, the management filed photocopy documents out of which the admitted documents are Ex. M/3 transfer order dated 03.06.1993, Reliving order dated 24.03.1993 issued by management Ex. M/2, Form-B of workman Ex. M/1, application to Controlling Authority for payment of gratuity, Voter Card, notice of appearance before Controlling Authority issued to management, reply of management and application of workman, all photocopies admitted by workman marked Ex. M/4 to M/8. The documents filed by the workman and proved are Ex. W/1 application dated 11.12.2014 and receipt of registry Ex. W/2. The workman has filed his affidavit as his examination in chief and has been cross examined by management.

Management has filed affidavit of its witness as its examination in chief, workman has cross examined this witness.

I have **heard arguments** of Shri Satyendra Kumar Advocate for workman and Shri Anoop Nair Senior Counsel for management assisted by Shri Neeraj Kewat Advocate and have gone through the record.

**The reference itself is the issue for determination.**

As regards the first point in the reference, case of the workman is that he was never served any transfer order. He kept insisting that transfer order be given him so that he could join at the place of transfer but his this request was not granted by management. According to the workman he was only informed orally about this transfer.

Management has stated that transfer order was issued in writing, it was pasted on the notice board and was served on the workman. He was relieved from the place of his posting to join at the place of his transfer alongwith other co-workers. Management has proved these documents. From perusal of these documents, it is proved that the transfer order was not oral rather it was in writing and was duly notified on the workman and this issue is answered accordingly.

As regards the **second point in the reference**, the case of the workman is that he kept attending the office till 2014 but was not allowed to work nor was he allowed to sign the attendance register. He has stated this fact in his statement on oath. Case of management is that the workman was issued transfer order vide office order dated 01.07.1994 and was released to proceed on transfer along with co-workers who were also transferred under the same order and relieved for joining at place of their transfer. The case and the statement of the workman that he kept insisting that his transfer order be given to him and that he continuously attended the office from 1994 to 2014 but was not paid his wages nor was he allowed to sign the attendance register, also no work was allotted him is so inherently improbable that it cannot be believed by anyone having even least common sense. From evidence on record, it is established that the workman voluntarily abandoned his service. Learned Counsel for management has referred to Judgment of Hon'ble the Apex Court in the case of *Vijay S. Sathey vs. Indian Airlines, reported in (2013) 10 SCC 253*. The relevant paragraphs of this Judgment are being reproduced as follows :-

**“This extract is taken from *Vijay S. Sathey v. Indian Airlines Ltd.*, (2013) 10 SCC 253 : (2014) 1 SCC (L&S) 760 : 2013 SCC OnLine SC 805 at page 257**

**12.** It is a settled law that an employee cannot be termed as a slave, he has a right to abandon the service any time voluntarily by submitting his resignation and alternatively, not joining the duty and remaining absent for long. Absence from duty in the beginning may be a misconduct but when absence is for a very long period, it may amount to voluntary abandonment of service and in that eventuality, the bonds of service come to an end automatically without requiring any order to be passed by the employer.

13. In *Jeewanlal (1929) Ltd. v. Workmen* [AIR 1961 SC 1567] this Court held as under : (AIR p. 1570, para 6)

“6. ... there would be the class of cases where long unauthorised absence may reasonably give rise to an inference that such service is intended to be abandoned by the employee.”

(See also *Shahoodul Haque v. Registrar, Coop. Societies* [(1975) 3 SCC 108 : 1974 SCC (L&S) 498 : AIR 1974 SC 1896] .)

14. For the purpose of termination, there has to be positive action on the part of the employer while abandonment of service is a consequence of unilateral action on behalf of the employee and the employer has no role in it. Such an act cannot be termed as “retrenchment” from service. (See *State of Haryana v. Om Parkash* [(1998) 8 SCC 733 : 1999 SCC (L&S) 262] .)

15. In *Buckingham and Carnatic Co. Ltd. v. Venkatiah* [AIR 1964 SC 1272] , while dealing with a similar case, this Court observed : (AIR p. 1275, para 5)

“5. ... Abandonment or relinquishment of service is always a question of intention, and, normally, such an intention cannot be attributed to an employee without adequate evidence in that behalf.”

A similar view has been reiterated in *G.T. Lad v. Chemical and Fibres of India Ltd.* [(1979) 1 SCC 590 : 1979 SCC (L&S) 76 : AIR 1979 SC 582]

16. In *Syndicate Bank v. Staff Assn.* [(2000) 5 SCC 65 : 2000 SCC (L&S) 601] and *Aligarh Muslim University v. Mansoor Ali Khan* [(2000) 7 SCC 529 : 2002 SCC (L&S) 965 : AIR 2000 SC 2783] this Court ruled that if a person is absent beyond the prescribed period for which leave of any kind can be granted, he *should be treated to have resigned and ceases* to be in service. In such a case, there is no need to hold an enquiry or to give any notice as it would amount to useless formalities. A similar view has been reiterated in *Banaras Hindu University v. Shrikant* [(2006) 11 SCC 42 : (2007) 1 SCC (L&S) 327] , *Chief Engineer (Construction) v. Keshava Rao* [(2005) 11 SCC 229 : 2005 SCC (L&S) 872] and *Bank of Baroda v. Anita Nandrajog* [(2009) 9 SCC 462 : (2009) 2 SCC (L&S) 689] .”

In the light of the principle of law laid down by Hon'ble the Apex Court in the referred case, the management is held fully justified in law in not reinstating the workman. The workman thus, is held not entitled to any relief.

In the light of above discussion and findings, the reference deserves to be answered against the workman and is answered accordingly. No order as to cost.

DATE:- 30/04/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 जून, 2024

**का.आ. 1129.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर/36/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था |

[सं. एल-22015/06/2018-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1129.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC/R/36/2018) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 06/06/2024.

[No. L-22015/06/2018– IR (CM-II)]

MANIKANDAN. N, Dy. Director

#### ANNEXURE

#### THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/36/2018

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Pyare Lal S/o. Late Jagdish  
R/o. Village – Dumarpara, PO: Dumarpara,  
Naya Baradwar, PS. – Baradwar,  
Distt.- Janjgir – Champa (CG) - 495668

Workman

Vs

The Sub Area Manager  
Dhelwadih – Singhali Bagdewa Sub Area  
SECL Korba Area, PO: Katghora  
Distt.- Korba (CG) - 495445

Management

### (JUDGEMENT)

(Passed on this 07<sup>th</sup> day of May 2024)

As per letter dated 21/08/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L-22015/06/2018 IR(CM-II) dt. 21/08/2018. The dispute under reference relates to:

***“Whether the Action on the part of Sub-area Manager of Dhelwadih – Singhali – Bagdewa Sub-Area of Korea Area dismissing Shri Pyare Lal S/o. Late Jagdish, General Category-1, vide their letter dated 11.04.2015 from service without conducting proper enquiry and inflicting harsher punishment is appropriate and justified? If not, what relief the concerned dismissed workman in the dispute is entitled to?”***

After registering a case on the basis of the reference, notices were sent to the parties and were served. Parties appeared and filed their respective statements of claim and defense.

**According to the workman**, he was appointed by management on compassionate basis as dependant son of his father Jagdish, who was an employee of management and expired on 11.11.2012. He was issued a charge sheet on 08.01.2014 alleging misconduct on his part under Clause-26.9 of Certified Standing Orders, which he denied. Basis of the charge was that he was working as Home Guard at the time he filed his application for compassionate appointment, hence was not dependant on his late father Jagdish at the time of death of Jagdish. He concealed this fact thus furnished false information regarding his dependency in getting the employment which is misconduct under Clause-26.9, being reproduced as follows:-

***“26.9 Giving of false information regarding one's age name, father's name, qualification etc. in connection with employment.”***

He denied the charge and the management passed the order regarding dismissal of his service vide the impugned order dated 11.04.2015, without conducting any departmental enquiry against the workman which is in violation of the Certified Standing Orders as well against the principles of natural justice. Hence, according to the workman, the order regarding his dismissal is arbitrary and bad in law. The workman has prayed that setting aside his termination, he be reinstated with all back wages and benefits.

**In its written statement of defense**, the management has taken a stand that the workman concealed the fact of his working as a Home Guard with Home Guard Organization and obtained compassionate appointment as dependant son of his late father which is a misconduct in the standing order, hence he was rightly dismissed from service.

Both the parties have filed oral and documentary evidence which shall be referred to as and when required.

I have **heard arguments** of Shri Ram Milan Dey Advocate for workman and Shri Neeraj Kewat Advocate and have gone through the record.

On perusal of record in the light of rival arguments, the only issue arises for determination in the case in hand is as follows :-

***“Whether the dismissal of the workman for the charge under Clause-26.9 of Certified Standing Orders without holding any departmental enquiry when the charge was denied by the workman is legal?”***

The relevant Clauses of Certified Standing Orders are being reproduced as follows :-

**“27.0 Procedure For Dealing with the Cases of Misconduct:-**

**27.1 MINOR PENALTY:** *where a workman is charged with a misconduct, which may lead to imposition of a minor penalty, he shall be informed in writing of the allegations made against him and shall be given an opportunity to explain his conduct within 48 hours. His explanation, if any, shall be considered before imposing a minor penalty by the Disciplinary Authority. Provided, however, that where a workman denies the charges alleged against him, no punishment shall be imposed upon unless a domestic enquiry has been conducted.*

**27.2 MAJOR PENALTY:** *Where a workman is charged with a misconduct, which may lead to the imposition of a major penalty, he shall be informed in writing of the allegations against him and shall be given an opportunity to explain his conduct within a period of 7 days. On receipt of a workman's explanation if it is decided to proceed further an enquiry shall be held. Such enquiry will be conducted by an officer other than the Officer who has either reported the alleged misconduct or issued the charge-sheet. AT the enquiry, the employee concerned shall be afforded reasonable opportunity of explaining and defending his conduct with the assistance of the fellow workmen or Office bearer of the Trade Union of which he is a member if so requested by him. Where such enquiry relates to the alleged misconduct of several workman, the enquiry may be held for all the workmen together.*

**27.2.1** *Where a disciplinary proceedings against a workman is contemplated or is pending or where criminal proceedings against him in respect of any offence are under investigation or trial and the employer is satisfied that it is necessary or desirable to place workmen under suspension, he may, by an order in writing, suspend him with effect from such date as may be specified in the order. A statement setting out in detail the reason for such suspension shall be supplied to the workmen within a week from the date of suspension.*

**27.2.2** *During the period of his suspension, the workman shall not enter the work premises except with the permission of the management, nor shall he leave station without the permission of the management.*

**27.2.3** *If during the enquiry it is found that the workman is guilty of a misconduct other than that stated in the order of suspension and/or the charge sheet, the workman shall be liable to punishment for such misconduct but before any punishment is imposed on him, he shall be afforded opportunity of explaining and defending his action in respect of such other misconduct.*

**27.2.4** *The payment of subsistence allowance will be subject to a written declaration by the workman that he is not engaged in any other employment, business, profession or vocation.*

**27.2.5** *If after enquiry/or conclusion of the criminal proceedings a workman is held guilty of the charges alleged against him or some other charges brought in the course of the enquiry or is convicted in the criminal proceedings and is consequently discharged or dismissed, he shall not be entitled to any remuneration for such period other than the subsistence allowance already paid to him. If a penalty other than dismissal, discharge or removal is imposed on him or he is exonerated or charges against him are dropped or he is not convicted in the criminal proceedings, he shall be paid the difference of subsistence allowance already paid to him and, the wages which he would have got if he had not been suspended except in case where he is suspended, not exceeding ten days, as a measure of punishment.*

**27.2.6** *No order of discharge or dismissal from service shall be made by an authority lower than the appointing authority of the workman.*

**27.2.7** *IN awarding the punishment, gravity of the misconduct the previous record of the workman and any other extenuating or aggravating circumstance, that may exist shall be taken into account. A copy of the order passed by the Disciplinary Authority shall be supplied to the workman concerned.*

**27.2.8** *If a workman refuses to accept a charge sheet order or any other communication served on him in accordance with these standing orders, a copy thereof shall be sent to him by Registered A/D post to his local as well as permanent address as recorded with the Company and another copy pasted on the Notice Board which shall constitute adequate service of such document."*

From the perusal of the aforesaid provisions, it is clear that the workman could not be awarded major punishment of dismissal of his services without departmental enquiry when he denied the charges. Hence, the action of the management in terminating his services is nothing but arbitrary, capricious and against law.

Before parting, it appears proper to mention here that Judicial Notice can be taken of the fact that in Home Guard Organization, the Home Guard is not a regular employee. He is a volunteer who is called for service as and when required for which he is paid honorarium. Even if the workman was working as a Home Guard, he cannot be assumed in any regular and beneficial employment. It is nowhere required that for compassionate appointment as dependant of a deceased employee, his dependant should be a street beggar.

In the light of above discussion and finding, the action of management in dismissing the services of the workman is held against law.

The relevant paragraphs of a leading judgment of Supreme Court in the case of *Deepali Gundu Surwase vs. 2013 SCC OnLine SC 719 at page 358* are being reproduced as follows :-

“This extract is taken from *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya, (2013) 10 SCC 324 : (2014) 2 SCC (L&S) 184 : 2013 SCC OnLine SC 719 at page 356*

38. The propositions which can be culled out from the aforementioned judgments are:

38.1. In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

38.2. The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

38.3. Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

38.4. The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

38.5. The cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimising the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The courts must always keep in view that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and the sufferer is the employee/workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

38.6. In a number of cases, the superior courts have interfered with the award of the primary adjudicatory authority on the premise that finalisation of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer i.e. the employee or workman, who can ill-afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in *Hindustan Tin Works (P) Ltd. v. Employees [Hindustan Tin Works (P) Ltd. v. Employees, (1979) 2 SCC 80 : 1979 SCC (L&S) 53]*.

38.7. The observation made in *J.K. Synthetics Ltd. v. K.P. Agrawal [(2007) 2 SCC 433 : (2007) 1 SCC (L&S) 651]* that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three-Judge Benches [*Hindustan Tin Works (P) Ltd. v. Employees, (1979) 2 SCC 80 : 1979 SCC (L&S) 53*], [*Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court, (1980) 4 SCC 443 : 1981 SCC (L&S) 16*] referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman.



39. Reverting to the case in hand, we find that the management's decision to terminate the appellant's service was preceded by her suspension albeit without any rhyme or reason and even though the Division Bench of the High Court declared that she will be deemed to have rejoined her duty on 14-3-2007 and entitled to consequential benefits, the management neither allowed her to join the duty nor paid wages. Rather, after making a show of holding inquiry, the management terminated her service vide order dated 15-6-2007. The Tribunal found the action of the management to be wholly arbitrary and vitiated due to violation of the rules of natural justice. The Tribunal further found that the allegations levelled against the appellant were frivolous. The Tribunal also took cognizance of the statement made on behalf of the appellant that she was not gainfully employed anywhere and the fact that the management had not controverted the same and ordered her reinstatement with full back wages."

In the light of the aforesaid principle of law laid down, the workman is held entitled to be reinstated with all back wages and benefits, on the post held by him at the time of his dismissal. He is further held entitled to arrears to be paid by management within 30 days from the date of publication of the Award in official Gazette, failing which interest @ of 8% per annum from the date of Award till payment. He is also held entitled to litigation cost Rs. 10,000/- to be paid by management within 30 days from the date of publication of the Award in official Gazette, failing which interest @ of 8% per annum from the date of Award till payment.

In the light of above discussion and findings, following Award is passed.

#### AWARD

**Holding the action of management in dismissing the workman Pyarelal, General Category-I vide letter dated 11.04.2015 against law and unjust, he is held entitled to be reinstated with all back wages and benefits, on the post held by him at the time of his dismissal. He is further held entitled to arrears to be paid by management within 30 days from the date of publication of the Award in official Gazette, failing which interest @ of 8% per annum from the date of Award till payment. He is also held entitled to litigation cost Rs. 10,000/- to be paid by management within 30 days from the date of publication of the Award in official Gazette, failing which interest @ of 8% per annum from the date of Award till payment.**

DATE:- 07/05/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 जून, 2024

**का.आ. 1130.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्लू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर/81/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[सं. एल-22012/123/2016-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1130.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC/R/81/2017) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of W.C.L. and their workmen, received by the Central Government on 06/06/2024

[No. L-22012/123/2016- IR (CM-II)]

MANIKANDAN. N, Dy. Director

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/81/2017**

Present: P.K.Srivastava

H.J.S..(Retd)

Mohd. Naseem Siddqui

Zonal Mahamantri

Coal Mines Engineering Workers Association

Ward No.-10, Gudhi, P.O.- Palachaurai

Distt.- Chhindwara (MP)

Workman

Versus

Regional General Manager

Western Coal Field Ltd. Kanhan Area

Dungariya, P.O.- Dungariya,

Distt.- Chhindwara (MP)

Management

### (JUDGEMENT)

(Passed on this 29<sup>th</sup> day of April 2024)

As per letter dated 05/06/2017 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/123/2016 IR(CM-II) dt. 05/06/2017. The dispute under reference relates to:

“क्या मुख्य महाप्रबंधक, वेस्टर्न कोल फील्ड्स लिमिटेड, कन्हान क्षेत्र, पोस्ट डुंगरिया, तहसील जुन्नारदेव, जिला छिंदवाड़ा म. प्र. द्वारा एन.सी.डब्ल्यू.ए.-II, के प्रावधान 10.4.4 व एन.सी.डब्ल्यू.ए.-III, के प्रावधान 9.4.4 के अनुसार 30.06.2011 को सेवानिवृत्त हुए पूर्व कामगार श्री रऊफ खान के आश्रित पुत्र नाजिम खान को रोजगार न देना न्यायसंगत है ? यदि नहीं, तो पूर्व कामगार क्या अनुतोष पाने का अधिकारी है ?

After registering a case on the basis of the reference, notices were sent to the parties and were served. The workman side did not appear and did not file any statement of claim. Management has file its written statement of defense.

In its written statement of defense, the management has taken a stand that NCWA VIII was in force at the time of retirement of the workman Rauf Khan on 30.06.2011 which does not contain this provision, hence, the claim of the applicant cannot be considered in law. Accordingly, management prayed that the reference be answered against the applicant.

Both the sides have laid evidence in form documents and affidavits to be referred to as and when required.

I have heard argument of learned Senior Counsel Shri Anoop Nair assisted by Advocate Shri Shubham Nanepag for management. None was present from the side of workman union for argument. No written submissions have been filed by any of the parties. I have gone through the record as well.

On the perusal of record in the light of argument the following limited point arises for determination in this case.

**Whether provisions of NCWA applicable at the time of superannuation of the workman Rauf Khan on 30.06.2011 will govern the claim of the applicant ?**

No doubt Clause-10.4.4 and 9.4.4 provide for appointment one dependant of an employee who has superannuated in the service of management on the vacancy arising out of this superannuation but in the NCWA's which came in operation after NCWA IV i.e. NCWA V to NCWA IX in operation on the date of filing written statement of defense by management, there is no such provision. Management has referred to a Judgment of *Hon'ble High Court of M.P. in W.P. No.-4996/2015 Vasudev Raut vs. Chairman, Coal India*, wherein it has been held that the NCWA in force at the time of superannuation of the workman will guide the claim of the applicant regarding appointment as dependant of superannuated workman. In another case *Indian Bank & Others vs. Promila & Others (2020) 2 SCC 729*, on the point whether a claim for compassionate appointment under scheme of a particular year could be decided based on subsequent scheme that came into course much after the claim, it was held that the claim could be decided on the basis of the scheme in force at the time of death of the employee. On this analogy also the claim of the present applicant will be decided on the basis of NCWA VIII in force at the time of superannuation of workman Rauf Khan on 30.06.2011 which does not contain any such provision.

In the light of above discussion and findings, the reference deserves to be answered against the workman and is answered accordingly. No order as to cost.

DATE:- 29/04/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 जून, 2024

**का.आ. 1131.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर/99/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[सं. एल-22012/06/2017-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1131.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**LC/R/99/2017**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **S.E.C.L.** and their workmen, received by the Central Government on **06/06/2024**

[No. L-22012/06/2017- IR (CM-II)]

MANIKANDAN. N, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

**NO.CGIT/LC/R/99/2017**

Present: P.K.Srivastava

H.J.S..(Retd)

Dy. General Secretary

Rashtriya Colliery Workers Federation

Federation Office, Chirimiri, PO: Chirimiri

District Korea (CG) - 497449

Workman

Versus

The Senior Manager

SECL, Duman Hill Group of Mines

PO: Sonawani, Distt. Korea (CG)

Management

#### (JUDGEMENT)

(Passed on this 1<sup>st</sup> day of May 2024)

As per letter dated 11/07/2017 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of Industrial Disputes Act, 1947 as per Notification No. L-22012/06/2017 IR(CM-II) dt. 11/07/2017. The dispute under reference relates to:

***“Whether the action on the part of management of Duman Hill Group of Mines of SECL Chirimiri area in dismissing the service of Shri Kaloo S/o. Suma w.e.f. 10.10.2015 after rendering a service period of 25 years on misconduct ground without properly following the principles of natural justice is appropriate and justified ? If not, what service benefit Shri Kaloo S/o. Sooma espoused by the General Secretary, Rashtriya Colliery Workers Federation Chirimiri, District Korea (CG) is entitled to ? ”***

After registering a case on the basis of the reference, notices were sent to the parties and were served. Parties appeared and file their respective Statement of Claims and Defense.

According to the workman union, the workman Kaloo S/o. Suma was first appointed as a General Mazdoor Category-I on 22.03.1990 on dependant appointment under the provisions of NCWA-III according to which if a workman died while in service or was declared medically unfit by a board constituted by management his dependant



is provided employment. Workman Suma was declared medically unfit and Kaloo, who claimed himself to be dependant son of Suma was given appointment in place of Suma. He worked with the management for 25 years when a complaint was made to management that the real name of Kaloo was Lingraj who is S/o. Balaji and he obtained job in the name of dependant of medically unfit workman Suma by falsely and fraudulently. The management served a charge sheet to the workman Kaloo leveling following charges against him under 26.09 and 26.22 of Standing Order which is as follows:-

**26.09:-** Furnishing wrong information with respect to name, age, father's name, qualification etc. with respect to employment.

**26.22:-** Knowingly doing an at which breaks discipline or which is against the interest of management.

Thus the basis of the charges that the workman Kaloo got dependant appointment by claiming himself to be Son of worker Suma who was medically unfit, whereas the workman was Kaloo S/o. Balaji and his real name was Lingraj.

According to the workman union, a departmental enquiry was conducted by management against all the principles of natural justice and against the rules. The Enquiry Officer wrongly held the charges proved against the workman. The Disciplinary Authority wrongly accepted the enquiry report and passed punishment disproportionate to the charge.

Management has rebutted the allegations with a case that enquiry was rightly conducted, charges were rightly held proved and punishment is also proportionate to the charges.

Following preliminary issue was framed on the basis of pleadings.

***Whether the departmental enquiry conducted by management is just, legal and proper ?***

On the basis of the evidence, this preliminary issue was decided in favour of management holding the departmental enquiry legal and proper vide order dated 13.02.2024. This order is part of this Award.

Following additional issues were also framed on the basis of pleadings:-

- 1) Whether the charges are proved on the basis of enquiry ?***
- 2) Whether the punishment awarded to the workman is proportionate to the charges ?***
- 3) Whether the workman is entitled to any relief ?***

Parties were given opportunity to lead evidence on these additional issues, no evidence was adduced by any of the parties on these additional issues. Management has filed and proved enquiry papers Ex. M/1 to M/42, to be referred to as and when required.

None was present from the side of workman union. No written argument filed by them. Argument of learned Counsel for management Shri Neeraj Kewat were heard by me and the record has also been perused.

#### **Issue No.-1:-**

The charges against the workman were as follows:-

**26.09:-** Furnishing wrong information with respect to name, age, father's name, qualification etc. with respect to employment.

**26.22:-** Knowingly doing an act which breaks discipline or which is against the interest of management.

The settled law is that the standard of proof required to prove a charge during departmental enquiry and in criminal trial is different. In the former, charge is to be proved to the extent of preponderance whereas in the later, charge is to be proved beyond reasonable doubt.

*Scope of disciplinary proceedings and scope of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different. Ref. T.N.C.S. Corpn. Ltd. vs. K. Meerabai, (2006) 2 SCC 255*

*Standard of proof in a departmental enquiry which is quasicriminal/quasi-judicial in nature: Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidence to prove the charge. Although the charges in a departmental proceedings are not required to be proved like a criminal trial i.e. beyond all reasonable doubts, we cannot lose sight of the fact that the enquiry officer performs a quasijudicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. Ref: (i) Nirmala J. Jhala Vs.*

*State of Gujarat & Another, AIR 2013 SC 1513 (paras 10, 11, 12 & 13). (ii) M.V. Bijlani Vs. Union of India, (2006) 5 SCC 88 (Para 25)*

*In the cases of (i) NOIDA Entrepreneurs Association Vs NOIDA & others, AIR 2007 SC 1161 (i4i) State Bank of India Vs. R.B. Sharma, (2004) 7 SCC 27 (iii) Kendriya Vidyalaya Sangathan Vs. T. Srinivas, (2004) 7 SCC 442 (iv) Depot Manager, APSRTC Vs. Mohd. Yousuf Miya, (1997) 2 SCC 699 (v) Captain M. Paul Anthony Vs. Bharat Gold Mines Limited (1999) 3 SCC 679 and (vi) State of Rajasthan Vs. B.K. Meena, (1996) 6 SCC 417 (vi) Pratap Singh Vs. State of Punjab, AIR 1964 SC 72 (vii) Jang Bahadur Singh Vs. Baij Nath, AIR 1969 SC 30, it has been laid down by the Hon'ble Supreme Court that "the purpose of departmental enquiry and of prosecution are two different and distinct aspects. Departmental Enquiry is to maintain discipline in the service and efficiency of public service. Crime is an act of commission in violation of law or of omission of public duty. The enquiry in a departmental proceeding relates to the conduct or breach of duty by the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. It is the settled legal position that the strict standard of proof or applicability of the Evidence Act stands excluded in a departmental proceeding. Criminal Proceedings and the departmental proceeding under enquiry can go on simultaneously."*

*In the case of T.N.C.S. Corporation Ltd. Vs. K. Meerabai, (2006) 2 SCC 255, it has been held by the Hon'ble Supreme Court that the scopes of the disciplinary proceedings and of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different.*

*In the cases of Mohd. Saleem Siddiqui Vs. State of UP & others, (2011) 2 UPLBEC 1575 (Allahabad High Court) and Ajeet Kumar Naag Vs. General Manager Indian Oil Corporation Ltd. Haldia, JT 2005 (8) SC 425, the distinction between departmental enquiry and criminal proceedings has been drawn as under: "The two proceedings i.e. criminal and departmental are entirely different. They operate in different fields and have different objectives. The object of criminal proceedings is to inflict appropriate punishment on offender and the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance service rules the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of accused beyond reasonable doubts, he cannot be convicted by a court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of preponderance of probability. Procedure with respect to standard of proof in criminal case and departmental enquiry are different. In the case of departmental enquiry the technical rules of evidence have no application and the doctrine of "proof beyond doubt" has also no application in the departmental enquiry. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. There would be no bar to proceed simultaneously with departmental enquiry and trial of criminal case. "*

In the case in hand, it comes out from perusal of statements of witnesses examined during enquiry that the applicant workman Kaloo had disclosed that his father's name was Suma and by representing himself to be dependant son of Suma, a worker who was declared medically unfit, obtained employment as his dependant. The witnesses also stated that during the enquiry that the real name was Lingraj who was son of Balaji. It has also come in the statements of the applicant workman during enquiry that he told Suma as his father and father-in-law both. He further took a case that in fact, he was adopted by Suma according to customs of his community and was married to D/o. Suma according to custom. Since, he declares himself a Hindu, Hindu Personal Law will apply in his case. For a valid and legal adoption, the formalities of adoption, enumerated in the Hindu Adoption and Maintenance Act, are required to be fulfilled and registration of adoption deed is required. In the case in hand, there is no evidence during the enquiry that these formalities were followed nor is there any registered adoption deed produced during enquiry.

In the light of above discussion, it is held that the workman could not prove is legal adoption before the Enquiry Officer. **Hence, the finding of the Enquiry Officer holding the charges proved cannot be faulted in law or fact** because without lawful adoption, the applicant workman could not claim himself to be the adopted son and dependant of Suma. Issue no.-1 is answered accordingly.

#### **Issue No.-2 :-**

The settled proposition of law is that Courts will not interfere in the punishment unless it is found to be shockingly disproportionate to the charges.

Hon'ble Apex Court in *B.C. Chayurvedi v. Union of India, (1995) 6 SCC 749* while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

*"The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in*

*exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof."*

In *DG, RPF vs. Sai Babu (2003) 4 SCC 331*, Hon'ble Apex Court has observed that:

*"6..... Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department/establishment which the delinquent person concerned works."*

In *United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364* Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

*"11. The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision."*

*"12. To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof."*

In *Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257* Hon'ble Supreme Court reiterated the legal position as follows:

*"8. .... The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."*

In *State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580* Hon'ble Supreme Court stated that:

*"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review."*

Hon'ble Apex Court in *Administrator, Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101* has observed that

*"The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts."*

This extract is taken from *State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya, (2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721 : 2011 SCC OnLine SC 416* at page 587

*7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or*

*finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44] , Union of India v. G. Ganayutham [(1997) 7 SCC 463 : 1997 SCC (L&S) 1806] , Bank of India v. Degala Suryanarayana [(1999) 5 SCC 762 : 1999 SCC (L&S) 1036] and High Court of Judicature at Bombay v. Shashikant S. Patil [(2000) 1 SCC 416 : 2000 SCC (L&S) 144] .)*

In *Air India Corporation Bombay vs. V.A. Ravellow* 1972 (25) FLR 319 (SC) it has been observed that:

*“Once the employer has lost the confidence in the employee and the bona fide loss of confidence is affirmed, the order of punishment must be considered to be immune from challenge, for the reason that discharging the office of trust and confidence requires absolute integrity, and in a case of loss of confidence, reinstatement cannot be directed.”*

In *Knhaiyalal Agarwal and others vs. Factory Manager, Gwalior Sugar Co. Ltd.* AIR 2001 SC 3645 Hon'ble Apex Court laid down the test for loss of confidence to find out as to whether there was bona fide loss of confidence in the employee, observing that:

*“Loss of confidence cannot be subjective, based upon the mind of the management. Objective facts which would lead to a definite inference of apprehension in the mind of the management, regarding trust worthiness or reliability of the employee, must be alleged and proved.”*

In the case in hand management has successfully proved the charges as mentioned above. These charges are punishable with major punishment including dismissal, termination or removal. Gaining employment on false particulars is an act of moral turpitude. Considering the nature of charges in the light of above discussion and settled principles on this point the punishment of his dismissal from service cannot be held excessive to the charge proved.

On the basis of above discussion the punishment is held not disproportionate to the charge and issue no.-2 is answered accordingly.

#### **Issue No.-3 :-**

In the light of findings recorded, the workman is held entitled to no relief.

No other point was argued.

Accordingly, the Reference is answered as follows :-

#### **A W A R D**

**Holding the action on the part of management of Duman Hill Group of Mines of SECL Chirimiri area in dismissing the service of Shri Kaloo S/o. Suma w.e.f. 10.10.2015 legal, appropriate and justified, the workman is held entitled to no relief. No order as to cost.**

DATE:- 01/05/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 जून, 2024

**का.आ. 1132.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर/96/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[सं. एल-22015/20/2008-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1132.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC/R/96/2008) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 06/06/2024.

[No. L-22015/20/2008- IR (CM-II)]

MANIKANDAN. N, Dy. Director

## ANNEXURE

## THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOR COURT, JABALPUR

NO. CGIT/LC/R/96/2008

Present- P.K.Srivastava

H.J.S.(Retd)

Shri Taran Singh,

Organiser, H.M.K.P. Bijuri,

PO: South Jhagrakhand Colliery,

Distt. Surguja (C.G.)

Workmen/Union

Versus

The General Manager

Hasdeo Area of SECL,

PO: South Jhagrakhand Colliery,

Distt. Surguja (C.G.)

Management

## (A W A R D)

(Passed on this 02<sup>nd</sup> day of May 2024)

As per letter Dated 09/07/2008, Notification No. L-22015/20/2008-IR(CM-II) by the Government of India, Ministry of Labor, New Delhi, the reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per .The dispute under reference relates to:

**“Whether the demand of Hind Mazdoor, Kissan Panchayat for regularization of 132 contract workers (as per list enclosed) by Management is legal and justified? To what relief the claimants are entitled?”**

After registering the case on the basis of reference, notices were sent to the parties.

**According to the statement of claim** put up by the Union on behalf of the workmen, as per list enclosed with the Notification these 132 workmen were working in Hasdeo Area of the Management company, a Government of India undertaking. These workmen were engaged by the Management through a so called contractor Hasnand Motwani, the contractor in Bijuri Area for mining jobs of prohibited nature.

Also, it was alleged that these workmen were engaged in work of prohibited nature in violation of prohibition Notification u/s 10 of The Contract Labour Regulation Act 1970 (in short CLRA). In fact, the workmen were deployed by Management for the purposes of paying wages lesser than the wages paid to employees of the Management doing the same job. The Management engaged a contractor who has always been smoke screen and camouflage in the eyes of law. The Management, after denying that these workers were engaged by them, admitted before Hon’ble High Court of Chhattisgarh that these workers worked for Management as contract workers. According to the Union, the real employer is the Management of the South Eastern Coalfields Limited (in short SECL) and not the ghost intermediary contractor, hence there is a employer- employee relationship between the workmen and Management of SECL.

Accordingly, it has been prayed that the reference be answered holding the action of Management in not regularizing the services of these 132 workmen, as per the list annexed with the Notification, illegal and unjustified and further declare them entitled to all the consequential benefits, and grant further reliefs required in the interest of justice.

**The Management of SECL has, in its statement of defense,** pleaded that these applicant/workmen were never engaged by the Management company nor were they engaged for work of prohibited nature. The identity of the 132 workmen is also not established. The case of the workmen that they worked for more than 190-240 days in any year under the direct control and supervision of the management company was also denied. It was also denied that the work of driving of stone drifts and miscellaneous stone cutting underground was taken from the applicant/workmen continuously during the relevant period. It was further pleaded by the Management that it was

the practice that for short works, short term contracts are given, the period of which does not exceed six months. For the purpose of starting a new Mines, Tender Dated 18/12/1999 was issued by Management from registered contractors for the work of open excavation of No 1&2 incline C-Seam, Somna incline of Bijuri Sub Area. Duration of the work was from 13/03/1991 to 12/06/1991. The contract was awarded to registered contractor Hansraj Motwani who had requisite license in CLRA and an agreement was signed between the Management and the contractor. Thereafter, work order was issued to the contractor. The revised estimate of the work of construction of open excavation for No 1 & 2 incline of C-seam (Somna) incline of Bijuri was issued from time to time. The contractor was left free to employ workers of his choice and the Management of the company did not have any hold or control over them except that to see that their wages are paid by contractors in presence of representative of management as required under 'CLRA'. The Management has further denied that the requirements under Contract Labor Regulation & Abolition Act 1970 have not been complied with and has pleaded that the work was never supervised by the officials of the company except that the execution of the overall work was used to be supervised by the official of the company. Vocational training was given to workers as it was required under Rules. The labour payment certificate was issued by the Management after completion of work allotted and accounts were settled. Accordingly, it has been pleaded that since the workmen were the employees of the contractor they could have best claimed relief from contractor who is a necessary party to the reference. Accordingly, the management has prayed that the reference be answered against the workmen. The management has further denied the locus standi of the applicant Union to raise the dispute on behalf of the workmen.

The workmen Union has filed rejoinder wherein they have denied the pleadings of Management.

**In evidence**, the Union has filed photocopy of order of Hon'ble High Court of Chhattisgarh Dt05/03/2008 in WP No 1758/1998, directing the Union of India to send reference to this Tribunal Ex W/1, Letter of Ministry to the Labour Commissioner in the light of the said order Ex W/2, Notification of Government of India dated 09/07/2008, Exhibit W/3 & Intimation of the reference to Union Ex W/4, The Union also filed list of the workmen in the reference with their verified photographs and other details.

2. The workmen / Union has also filed affidavits of witness Gayadass, the staff of the Contractor, and workmen, Swamidass, Rohit Prasad, Kunwar Singh, Kishan s/o Nanhu, Narayan Prasad, Indrapal, Kodulal, Lekhram/, who have been cross examined by Management. Workmen Besahulal, Mahendra Singh, Laloo, Kamta Prasad, Sonsai, Bhaiyalal, Nehru, Ramprasad, Komaldass, Mahesh, Munni Bai, Gayadass, Bhagwan Dass, Bandhu Dass, Ramewsh Giri, Ramkripal s/o Banaras, Ramkripal s/o Ghogha, Ramlal, s/o Besahu, Ramlal s/o Sattu and 79 other workmen have also filed their affidavits as their examination in chief but have not been cross examined by Management.

Management has filed the affidavits of its witnesses Kamlesh Gautam Colliery Manager, Maya Prakash Mishra the then Senior Manager and Jayant Kumar Mishra Manager (Law) as their examination in chief out of which Kamlesh Gautam and Maya Prakash Mishra have been cross examined.

The Management has further proved the Exhibit documents following Exhibit:-

1. Exhibit M-1 Tender Notice.
2. Exhibit M-2 work agreement..
3. Exhibit M-3 work order
4. Exhibit M-4 photocopy of license of contractor
5. Exhibit M-4 The registration of the Management in CLRA
6. Exhibit M-5, Map on the basis of which the work was given to the Contractor.

I have heard arguments of Advocate Mr. R.C. Shrivastava, learned Counsel for Workmen and Mr. Anoop Nair, learned Senior Counsel for Management. . I have gone through the records.

From the perusal of the record and in the light of rival arguments, following issues, arise in the present case.

- “1:- Whether the workmen were engaged in work of prohibited category.**
- 2:- Whether the alleged contracts were sham and bogus, rather a camouflage to deprive the workmen of their benefits.**
- 3:- Whether the disengagement of workmen is justified in law and fact.**
- 4:- Whether the workmen are entitled to any benefits.”**



**Issue No 1-**

According to the respective claims of the parties in this case, it is alleged from the side of the Workmen that the said contract is of prohibited category on ground that it was work prohibited by Notification of Government of India dated 21-1-88.

**Section 1(5) of the CLRA Act** is relevant here which is being reproduced as follows:-

*“(a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed.*

*(b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final.*

*Explanation.-- For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature—*

- i. if it was performed for more than one hundred and twenty days in the preceding twelve months, or*
- ii. if it is of a seasonal character and is performed for more than six months in a year.”*

Learned Counsel for the Workmen/Union has further referred to Clause **11.5.1 of the agreement of NCWA 4/5** which reads as follows:-

*“Industries shall not apply labors through contractor or engage contractor’s labor on jobs of permanent and perennial nature.”*

13. Learned Counsel further refers to Notification of Government of India dated 21-6-1988 on record which prohibits contract labor in following jobs :-

**SCHEDULE**

- 1. Raising or raising-cum-selling of coal;**
- 2. Coal loading and unloading;**
- 3. Over burden removal and earth cutting;**
- 4. Soft coke manufacturing**
- 5. Driving of stone drifts and miscellaneous stone cutting underground:**

*Provided that his Notification shall not apply to the following categories:-*

- (a) Quarries in the North-East Coal Field which can only be worked for a few months every year due to heavy rainfall in the area;*
- (b) Quarries located by the side of the river in Pency valley and similar other patch deposits which can only be worked when the level of river has gone down and during non-rainy seasons;*
- (c) Loading coal when there is mechanical failure, failure of power or irregular supply of wagon by the railway; and*
- (d) Cutting stone drifts/faults which cannot be detected in advance and are of short duration, say up to six months.*

It is in the argument of learned Counsel of Workmen that since there was in prohibition of NCWA and CLRA Act, as mentioned above, hence the work for which the so called contractor is alleged to have been engaged of prohibited nature which could not be done through contractor. On the other hand, learned Senior Counsel for Management has submitted that the evidence on record as well documents regarding the issuing of tender and work agreement as well as work order show that the said got executed through the contractor was not of prohibitory category as mentioned in the Notification dated 21-6-1988. The Management side has referred to the statement of its witness Kamleshwar Gautam., Colliery Manager Mining who has stated in his affidavit filed as his examination-in-chief that for the purpose of starting of new mine, certain earth works are required to be done which are temporary/intermittent and not prohibited under the provision of CLRA Act, were got done by contractor after the tender process. He further stated that the contract terminated on the completion of the work and also that the work to open excavation for 1&2 no. of incline of C-seam Somna incline of Bijuri Sub Area granted to Hansanand Motwani, the successful bidder contractor after inviting tender. Work agreement was entered into between the Management and the contractor who had all the requisite licenses under CLRA. Thereafter, work order was issued to the contractor. The period required for completion of the work was from 13/03/1991 to 12/06/1991. The said contractor was awarded extension of time up to 30/12/1991 for executing the contract. Labour payment certificate was issued

by Management after completion of the work. Also, he has stated that the Management is registered Principal employer in CLRA.

This witness has proved these documents. One other document filed by Management, admitted by workmen/Union, requires to be referred here is the excavation map prepared before excavation which is prepared by CMPDI. This map is the blue print regarding the area which is to be excavated for mining. This document shows the proposed area where the mining activity is to be conducted

As submitted by the learned Counsel for the workmen, the work allotted was of driving of stone drifts and miscellaneous stone cutting underground hence it was a prohibited job for which Notification under Section 10(1) of CLRA Act was issued in 1988.

On the other hand, it has been submitted by learned Senior Counsel for Management that in fact the work was allotted for open excavation of incline. Learned counsel has referred to the Proviso-D of the said Notification in this respect. Further, it has been submitted that in fact excavation, of incline was taken from the workmen wherein cutting stone rifts/faults which cannot be detected in advance and are of short duration say upto six months is exempted from prohibition. Also it has been submitted that unforeseen stone layers coming in the way while executing the work of drivage of inclined shaft are to be of short duration hence cannot be covered under the prohibition as prohibited work. This argument has been rebutted by learned Counsel for workmen/Union with an argument that evidence on record in form of statement of witnesses and documents has proved that in the garb of excavation of incline, in the so called agreement, the work of driving of stone drifts and misc. stone, underground cutting was taken from the workmen. Learned counsel has referred to the statement of the workmen witness in this respect firstly. The workmen witnesses have consistently stated that he was engaged by management in Somna Mines of Bijuri sub-area within Hasdeo area of SECL, for construction of two inclines along with 131 other labourers. They did removal of mud up to 3 meter down the earth, thereafter the stone drift was used for cutting the stone in which all the labourers were engaged. This work was done in 3 shifts per day. All the labourers were given training by the management and were issued Vocational Training Certificate by management after training. The management had prepared there Form-B as per Rules. Their attendance was recorded by the clerks of the management in Form-C. Their work was supervised by Supervisors, Mining Sirdars, Overmen and the Manager of the Mines. These witnesses have further stated that for operating the stone drift inside the Mines, the instruments and apparatus was supplied by the management. They used to load the stones after blast and also used to operate the other machines. The cap lamp, safety cap and shoes were also provided by management before their entry inside the Mines. In their cross examination, these witnesses have mainly denied that they were engaged by the contractor, they have also denied that they were paid wages by the contractor and have stated that in fact their wages was paid by management. It is the admitted the case of management initially the work was to be done within the period from 13.03.1991 to 12.06.1991 but this period was extended upto 30.12.1991 and the estimate was also revised, the Labour Payment Certificate and paper regarding revised estimate proved by management Ex. M/6 & M/5 respectively also shows that this work continued till 30.12.1991.

The witness Banarsi Lal examined from the side of workman union who happens to be an employee of the contractor have also fully corroborated the aforesaid statements of the workman witnesses. In contrast, there is on record of the statement of the Colliery Manager Kamlesh Gautam who has corroborated the case of the management as stated in its written statement of claim. In his cross examination he admits that he is working in this Colliery since 05.04.2020, hence naturally he does not have firsthand knowledge of the facts prevailing during the period of 13.03.1991 to 30.12.1991 at the site. The other management witness who has filed his affidavit in support of management has stated in his cross examination that he never visited the area since 2010. His affidavit was drafted by management and was sent to him and thereafter he signed his affidavit. No much credit can be given to this witness in light of his this statement in his cross examination.

**Hence, in the light of these facts, the witnesses from the side of workman union are held to be more reliable and accordingly the allegations of the workman union that these workman were engaged by management, also that they were paid by management, their work was supervised by management, they worked at the site of management, management provided vocational training and instruments to them for the work and that they were engaged in stone cutting for the Mines also in loading the stones which is prohibited activity in notification of 1988 referred earlier are held proved.**

Hence, the arguments of learned Senior Counsel for management that it could not be detected in advance, fails in the light of above discussion. **It is held proved with the work continued for more than six months, hence on the basis of these proved facts Proviso-D of the Notification could not apply to the case in hand on the basis of the evidence as discussed above, it is held proved that the workmen were engaged in driving of stone drifts and misc. stone cutting underground while taking the work of drivage of Incline which was known to the management in advance and they were not of a short duration of six months rather they continued up to more than six months.**



Accordingly, the claim of the workmen Union that the work done was prohibited vide Notification of July-21-1998 and was classified in a prohibited category which could not be taken by contract labor as proved under Section 10(1) of CLRA Act.

On the basis of the finding recorded above holding that, the work was of prohibited nature as provided under Clause 5 of Schedule of prohibited works in the prohibition Notification of June-21-88, Issue No.1 is answered in favor of workmen.

#### **Issue No 2-**

Before entering into examination of evidence on this issue produced from both the sides, it is proper to refer the case laws referred to by both the side learned counsel in this respect is as under-

The learned Counsel for workmen/Union has referred to case law

**Hussainbhai, Calicut Vs. The Alath Factory Thezhilali Union, Kozhikode and others, (1978)4 Supreme Court Cases 257.** The relevant portion is reproduced below: -

*“Labor and Industrial Law – Industrial Disputes Act 1947 – Section 2(s) – Employer and employee relationship – Workmen employed by independent contractor to work in employer’s factory – Whether “workmen” – Tests for determining*

*The petitioner is a factory owner manufacturing ropes. A number of workmen were engaged to make ropes but they were hired by contractors who had executed agreements with the petitioner to get such work done. When 29 of those workmen were denied employment, an industrial dispute was referred by the State Government and the award was attacked on the ground that the workmen were not workmen of the petitioner but only of the contractor. The High Court rejected the contention. Dismissing the appeal, the Supreme Court.*

**Held:**

*The facts found are that the work done by the workmen was an integral part of the industry concerned, that the raw material was supplied by the management, that the factory premises belonged to the management, that the equipment used also belonged to the management, and that the finished product was taken by the management for its own trade. The workmen were broadly under the control of the management and defective articles were directed to be rectified by the management. This concatenation of circumstances is conclusive that the workmen were the workmen of the petitioner. (Para-2)*

*The true test is where a worker or group of workers labor to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers’ subsistence, skill and continued employment. If he, for any reason, chokes off, the worker is virtually laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex contractu is of no consequence, when, on lifting the veil or looking at the conspectus of factors governing employment, the naked truth is discerned, and especially since it is one of the myriad devices resorted to by managements to avoid the responsibility when labor legislation casts welfare obligations on the real employer based on Arts. 38, 32, 42, 43 and 43A. If livelihood of the workmen substantially depends on labor rendered to produce goods and services for the benefit and satisfaction of enterprise, the absence of direct relationship or the presence of dubious intermediaries cannot snap the real life-bond. If, however, there is total dissociation, in fact, between the disowning management and aggrieved workmen, the employer is in substance and in real life-term, by another.*

**Gujarat Electricity Board, Thermal Power Station, Gujrat Vs. Hind Mazdoor Sabha, 1995-II-LLJ-790-held-**

*Industrial Disputes Act, 1947- Sec. 2(k), 2(s), 10(2) – Contract Labor (Regulation & Abolition) Act 1970- Sec.10 – Abolition of contract labor – industrial dispute – jurisdiction of Labor Court under Industrial Dispute Act – Jurisdiction of Appropriate Government has exclusive jurisdiction to decide in regard to abolition of contract labor – section 10 of the Contract Labor Act would come into play only in cases of genuine contract and not when contract is sham or camouflage – contract Labor abolition act does not provide for status of the contract labor after abolition – Industrial Tribunal whether have jurisdiction to direct principal employer to absorb erstwhile workmen of the contractor and also determine the terms and conditions – Industrial adjudicator will determine the status of a workmen or abolition of contract labor, if industrial dispute was pending before him on date of abolition of contract labor system by appropriate government – workmen of erstwhile contractor can raise dispute on the basis that they are workmen of*

*principal employer and dispute in such cases would be not for abolition of contract labor, but on the footing that workmen were always employees of principal employer - “*

Secretary, Haryana Electricity Board Vs. Suresh and others, AIR-1999-SC-1160. Held-

*“(E) Contract Labor (Regulation and Abolition) Act (37 of 1970), S.10 – Contract Labor – Absorption in service- Electricity Board – Work of keeping plants and station clean and hygienic awarded to contractor- work not of seasonal nature – contract itself stipulating number of employees to be engaged by Contractor – Overall control of working of contract labor including administrative control remaining with the Board – Board neither registered as principal employer nor contractor was licensed contractor – Contract system was thus a mere camouflage which could be easily pierced and employer employee relationship between Board and employee easily visualized – Employees who have worked for more than 240 days cannot therefore be denied absorption.”*

Learned counsel has referred following paragraphs (Paras 15, 17, 19), being reproduced as follows-

*It would in this context, however, be convenient to note the observations of the High Court as below:-*

*“The learned counsel for the petitioner has tried to argue that the findings of fact arrived at by the Labor Court was not based upon proper appreciation of evidence. This plea cannot be accepted in as much as the Labor Court has referred to the whole of the evidence lead in the case before coming to such a conclusion. Otherwise, also in view of the law laid down by the Supreme Court in R.K. Panda’s case (supra) the findings of fact arrived at by the Labor Court cannot be set aside in writ jurisdiction particularly when it is neither perverse nor contrary to the record but based only on appreciation of evidence. Keeping in view the nature of the work being carried on by the petitioner, the nature of duties which were performed by the respondents-workmen, the continuity of the work for which the labor was employed and the fact that the wages were paid by the petitioner-employer who supervised and controlled not only the attendance but also discipline of the workmen in the discharge of their duties and keeping in view the conditions of contract of the employer with Kashmira Singh, Contractor, there is no other conclusion which can be arrived at except the one that there existing a relationship of employer and workmen between the contesting parties and the Labor Court had rightly passed the award which is impugned in this petition.”*

*As noticed above Draconian concept of law is no longer available for the purpose of interpreting a social and beneficial piece of legislation specially on the wake of the new millennium. The democratic polity ought to survive with full vigour: socialist status as enshrined in the Constitution ought to be given its full play and it is in this perspective the question arises – is it permissible in the new millennium to decry the cry of the labor force desirous of absorption after working for more than 240 days in an establishment and having their workings supervised and administered by an agency within the meaning of Article 12 of the Constitution – the answer cannot possibly be in the affirmative – the law courts exist for the society and in the event law courts feel the requirement in accordance with principles of justice, equity and good conscience, the law courts ought rise up to the occasion to meet and redress the expectation of the people. The expression ‘regulation’ cannot possibly be read as contra public interest but in the interest of public.*

*19-It has to be kept in view that this is not a case in which it is found that there was any genuine contract labor system prevailing with the Board. If it was a genuine contract system, then obviously, it had to be abolished as per Section 10 of the Contract Labor Regulation and Abolition Act after following the procedure laid down therein. However, on the facts of the present case, it was found by the Labor Court and as confirmed by the High Court that the so called contractor Kashmir Singh was a mere name lender and had procured labor for the Board from the open market. He was almost a broker or an agent of the Board for that purpose. The Labor Court also noted that the Management witness Shri A.K. Chaudhary also could not tell whether Shri Kahsmir Singh was a licensed contractor or not. That workmen had made a statement that Shri Kashmir Singh was not a licensed contractor. Under these circumstances, it has to be held that factually there was no genuine contract system prevailing at the relevant time wherein the Board could have acted as only the principal employer and Kashmir Singh as a licensed contractor employing labor on his own account. It is also pertinent to note that nothing was brought on record to indicate that even the Board at the relevant time, was registered as principal employer under the Contract Labor Regulation and Abolition Act. Once the Board was not a principal employer and the so called contractor Kashmir Singh was not a licensed contractor under the Act, the inevitable conclusion that had to be reached was to the effect that the so called contract system was a mere camouflage, smoke and a screen and disguised in almost a transparent veil which could easily be pierced and the real contractual relationship between the Board, on the one hand, and the employees, on the other, could be clearly visualized.’*

**Bharat Bank Limited Vs. Employees of Bharat Bank Limited, AIR 1950 SC 188.**

*The Hon'ble Supreme Court has held that the Tribunal has got wide power in given circumstances, it can create contract between parties in the interest of justice. No other Courts vested with such power.*

On the other hand learned Senior Counsel for the Management referred to a judgment of Supreme Court in case **The Director SAIL India vs. Ispat Khadan Mazdoor Union Civil Appeal no 8081-8082 of 2011 reported in AIR 2019 SC 3601**. Para 33,35,39,41,44,46,48,49 have been specifically referred to by learned counsel as follows:-

*Before we may advert to examine the question in the instant appeals any further, it will be apposite to take note of the legal effect of the prohibition Notification issued by the appropriate Government in exercise of power under Section 10(1) of CLRA Act and its exposition by the Constitution Bench of this Court in Steel Authority of India Ltd. and Others (supra) overruling the judgment in Air India Statutory Corporation and Others (supra).*

*The legal consequence of Section 10(1) of the CLRA Act, has been noticed in paragraph 68, 88, 105 and 125 as follows: 24 "68. We have extracted above Section 10 of the CLRA Act which empowers the appropriate Government to prohibit employment of contract labor in any process, operation or other work in any establishment, lays down the procedure and specifies the relevant factors which shall be taken into consideration for issuing Notification under subsection (1) of Section 10. It is a common ground that the consequence of prohibition Notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labor, is neither spelt out in Section 10 nor indicated anywhere in the Act.*

*In our view, the following consequences follow on issuing a Notification under Section 10(1) of the CLRA Act:*

- (1) contract labor working in the establishment concerned at the time of issue of Notification will cease to function;*
- (2) the contract of principal employer with the contractor in regard to the contract labor comes to an end;*
- (3) no contract labor can be employed by the principal employer in any process, operation or other work in the establishment to which the Notification relates at any time thereafter;*
- (4) the contract labor is not rendered unemployed as is generally assumed but continues in the employment of the contractor as the Notification does not sever the relationship of master and servant between the contractor and the contract labor;*
- (5) the contractor can utilize the services of the contract labor in any other establishment in respect of which no Notification under Section 10(1) has been issued where all the benefits under the CLRA Act which were being enjoyed by it, will be available;*

*25 (6) if a contractor intends to retrench his contract labor, he can do so only in conformity with the provisions of the ID Act. The point now under consideration is: whether automatic absorption of contract labor working in an establishment, is implied in Section 10 of the CLRA Act and follows as a consequence on issuance of the prohibition Notification there under. We shall revert to this aspect shortly. 88. If we may say so, the eloquence of the CLRA Act in not spelling out the consequence of abolition of contract labor system, discerned in the light of various reports of the Commissions and the Committees and the Statement of Objects and Reasons of the Act, appears to be that Parliament intended to create a bar on engaging contract labor in the establishment covered by the prohibition Notification, by a principal employer so as to leave no option with him except to employ the workers as regular employees directly. Section 10 is intended to work as a permanent solution to the problem rather than to provide a onetime measure by departmentalizing the existing contract labor who may, by a fortuitous circumstance be in a given establishment for a very short time as on the date of the prohibition Notification. It could as well be that a contractor and his contract labor who were with an establishment for a number of years were changed just before the issuance of prohibition Notification. In such a case there could be no justification to prefer the contract labor engaged on the relevant date over the contract labor employed for a longer period earlier. These may be some of the reasons as to why no specific provision is made for automatic absorption of contract labor in the CLRA Act. 105. The principle that a beneficial legislation needs to be construed liberally in favour of the class for whose benefit it is intended, does not extend to reading in the provisions of the Act what the legislature has not provided whether expressly or by necessary implication, or substituting remedy or benefits for that provided by the legislature. We have already noticed above the intendment of the CLRA Act that it regulates the*

conditions of service of the contract labor and 26 authorizes in Section 10(1) prohibition of contract labor system by the appropriate Government on consideration of factors enumerated in subsection (2) of Section 10 of the Act among other relevant factors. But, the presence of some or all those factors, in our view, provides no ground for absorption of contract labor on issuing Notification under subsection (1) of Section 10. Admittedly, when the concept of automatic absorption of contract labor as a consequence of issuing Notification under Section 10(1) by the appropriate Government, is not alluded to either in Section 10 or at any other place in the Act and the consequence of violation of Sections 7 and 12 of the CLRA Act is explicitly provided in Sections 23 and 25 of the CLRA Act, it is not for the High Courts or this Court to read in some unspecified remedy in Section 10 or substitute for penal consequences specified in Sections 23 and 25 a different sequel, be it absorption of contract labor in the establishment of principal employer or a lesser or a harsher punishment. Such an interpretation of the provisions of the statute will be far beyond the principle of ironing out the creases and the scope of interpretative legislation and as such, clearly impermissible. We have already held above, on consideration of various aspects, that it is difficult to accept that Parliament intended absorption of contract labor on issue of abolition Notification under Section 10(1) of the CLRA Act.

125. The upshot of the above discussion is outlined thus: (1)(a) Before 28/11/1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government; (b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein *eo nomine*, or (ii) any industry is carried on: (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A Notification under Section 10(1) of the CLRA Act prohibiting employment of contract labor in any process, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to (i) conditions of work and benefits provided for the contract labor in the establishment in question, and (ii) other relevant factors including those mentioned in subsection (2) of Section 10;

(b) In as much as the impugned Notification issued by the Central Government on 9/12/1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively i.e. from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said Notification on or before 28 the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labor on issuing a Notification by the appropriate Government under subsection (1) of Section 10, prohibiting employment of contract labor, in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order absorption of the contract labor working in the establishment concerned.

(4) We overrule the judgment of this Court in *Air India* case

[(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labor following the judgment in *Air India* case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) *On issuance of prohibition Notification under Section 10(1) of the CLRA Act prohibiting employment of contract labor or otherwise, in an industrial dispute brought before it by any contract labor in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labor for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance with various beneficial legislations so as to deprive the workers of the benefit there under. If the contract is found to be not genuine but a mere camouflage, the so called contract labor will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labor in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.*

29 (6) *If the contract is found to be genuine and prohibition Notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labor in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labor, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications."*

33. *The exposition of the judgment of the Constitution Bench of this Court made it clear that neither Section 10 nor any other provision in the CLRA Act provides for automatic absorption of contract labor on issuing a Notification by the appropriate Government under Section 10(1) of CLRA Act.*

*Consequently, the principal employer is not required or is under legal obligation by operation of law to absorb the contract labor working in the establishment. 34. This court in Steel Authority of India Ltd. and Others (supra) further held that on a issuance of Notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labor in any process, operation or other work, if an industrial dispute is raised by any contract labor in regard to condition of service, it is for the industrial adjudicator to consider whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labor for work of the establishment under a genuine contract, or as a mere ruse/camouflage to evade compliance with various beneficial legislations so as to deprive the workers of statutory benefits. If the contract is found to be sham, nominal or camouflage, then the so called labor will have to be treated as direct employee of the principal employer and the industrial adjudicator should direct the principal employer to regularize their services in the establishment subject to such conditions as it may specify for that purpose in the facts and circumstances of the case.*

35. *On the other hand, if the contract is found to be genuine and a prohibition Notification has been issued under Section 10(1) of the CLRA Act, in respect of the establishment, the principal employer intending to employ regular workmen for the process, operation or other work of the establishment in regard to which the prohibition Notification has been issued, it shall give preference to the erstwhile contract labor if otherwise found suitable, if necessary by giving relaxation of age as it appears to be in fulfillment of the mandate of Section 25(H) of the Industrial Disputes Act, 1947.*

36. *It may be noted that the learned counsel for the respondent has placed reliance on the judgments of this Court in Silver Jubilee Tailoring House and Others Vs. Chief Inspector of Shops and Establishments and Another 4; Hussain bhai, Calicut Vs. Alath Factory The zhilali Union, Kozhikode and Others 5; Indian Petrochemicals Corporation Ltd. and Another Vs. and Others 6 and these cases have been considered by the Constitution Bench of this Court in Steel Authority of India Ltd. and Others (supra) of which a detailed reference has been made by us.*

37. *Tests which are to be applied to find out whether the person is an employee or an independent contractor in finding out whether the contract labor agreement is sham, nominal or a 4 1974(3) SCC 498 5 1978(4) SCC 257 6 1999(6) SCC 439 32 mere camouflage has been examined by this Court in International Airport Authority of India Vs. International Air Cargo Workers' Union and Another? by the two Judge Bench of this Court. The relevant paras are as under: " 38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labor agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labor, necessarily, the labor supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to*



*regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.*

39. *The principal employer only controls and directs the work to be done by a contract labor, when such labor is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."*

38. *These are the broad tests which have been laid down by this Court in examining the nature and control of the employer and 7 2009 (13) SCC 374 33 whether the agreement pursuant to which contract labor has been engaged through contractor can be said to be sham, nominal and camouflage.*

46. *To test it further, apart from the statutory compliance which every principal establishment is under an obligation to comply with, its noncompliance or breach may at best entail in penal consequences which is always for the safety and security of the employee/workmen which has been hired for discharge of the nature of job in a particular establishment. The exposition of law has been further considered in International Airport Authority of India case (supra) where the contract was to supply of labor and necessary labor was supplied by the contractor who worked under the directions, supervision and control of the principal employer, that in itself will not in any manner contract entered between the contractor and contract labor to construe the be sham and bogus per se. Thus, in our considered view, if the scheme of the CLRA Act and other legislative enactments which principal establishment has to comply with under the mandate of law and taking note of the oral and documentary evidence which came on record, the finding which has been recorded by the CGIT under its award dated 16th September, 2009 in absence of the finding of fact recorded being perverse or being of no evidence and even if there are two views which could possibly be arrived at, the view expressed by the Tribunal ordinarily was not open to be interfered with by the High Court under its limited judicial review under Article 226/227 of the Constitution of India scope of and this exposition has been settled by this Court in its various judicial precedents the*

48. *It is true that judgment in Dena Nath and Others (supra) is in reference to failure of compliance of Section 7 and 12 and not in reference to Section 10(1) of the CLRA Act but if we look into the scheme of CLRA Act which is a complete code in itself, noncompliance or violation or breach of the provisions of the CLRA Act, it result into penal consequences as has been referred to in Sections 23 to 25 of the Act and there is no provision which would entail any other consequence other than provided under Section 23 to 25 of the Act.*

Learned Senior Counsel for Management has further referred to a decision of Supreme Court in SLP No. 33798-33799 2014, **BHARAT HEAVY ELECTRICALS LTD. Vs MAHENDRA PRASAD JAKHMOLA & ORS.**

The relevant portion of the judgment referred to by learned counsel is being reproduced as follows:-

*"We, now come to some of the judgments cited by Shri Sudhir Chandra and Ms. Asha Jain. In 'General Manager, (OSD), Bengal Nagpur Cotton Mills, Rainandgaon v. Bharat Lala and Another' [2011 (1) SCC 635], it was held that the well recognised tests to find out whether contract laborers are direct employees are as follows:*

*"10. It is now well settled that if the industrial adjudicator finds that the contract between the principal employer and the contractor to be a sham, nominal or merely a camouflage to deny employment C.A. NOS. 1799-1800/ 2019 etc. (@SLP (C) Nos. 33747-33748/ 2014 etc.) benefits to the employee and that there was in fact a direct employment, it can grant relief to the employee by holding that the workmen is the direct employee of the principal employer. Two of the well-recognized tests to find out whether the contract laborers are the direct employees of the principal employer are: (i) whether the principal employer pays the salary instead of the contractor;*

*and (ii) whether the principal employer controls and supervises the work of the employee. In this case, the Industrial Court answered both questions in the affirmative and as a consequence held that the first respondent is a direct employee of the appellant" The expression 'control and supervision' were further explained with reference to an earlier judgment of this Court as follows:*

*"12. The expression "control and supervision" in the context of contract labor was explained by this Court in International Airport Authority of India v. International Air Cargo Workers' Union thus: (SCC p.388, paras 38-39) "38.... if the contract is for supply of labor, necessarily, the labor supplied by the contractor*

*will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.*

**39. The principal employer only controls and directs the work to be done by a contract labor, when such labor is assigned/allotted/sent to him.**

*But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer C.A. NOS. 1799-1800/ 2019 etc. (@SLP (C) Nos. 33747-33748/ 2014 etc.) but that is secondary control. The primary control is with the contractor.” From this judgment, it is clear that test No. 1 is not met on the facts of this case as the contractor pays the workmen their wages. Secondly, the principal employer cannot be said to control and supervise the work of the employee merely because he directs the workmen of the contractor ‘what to do’ after the contractor assigns/ allots the employee to the principal employer. This is precisely what paragraph 12 explains as being supervision and control of the principal employer that is secondary in nature, as such control is exercised only after such workmen has been assigned to the principal employer to do a particular work.*

*We may hasten to add that this view of the law has been reiterated in ‘Balwant Rai Saluja and Another v. Air India Limited and Others’ [2014(9) SCC 407], as follows:*

*“65. Thus, it can be concluded that the relevant factors to be taken into consideration to establish an employer-employee relationship*

*(i) who appoints the workers;*

*(ii) who pays the salary/remuneration;*

*(iii) who has the authority to dismiss;*

*(iv) who can take disciplinary action;*

*(v) whether there is continuity of service; and*

*(vi) extent of control and supervision i.e. whether there exists complete control and supervision.*

*As regards extent of control and supervision, we have already taken note of the observations in Bengal Nagpur Cotton Mills case [(2011) 1 SCC 635], International Airport Authority of India case [2009 13 SCC 374] and Nalco case [(2014) 6 SCC 756].” C.A. NOS. 1799-1800/ 2019 etc. (@SLP (C) Nos. 33747-33748/ 2014 etc.) However, Ms. Jain has pointed out that contractors were frequently changed, as a result of which, it can be inferred that the workmen are direct employees of BHEL.”*

26. Another case **Bengal Nagpur Cotton Mills 2011 Vol.1 SCC 635 (para-10, 14, 16, 8 and 12)** referred to by learned counsel is also the relevant paragraphs of which are being reproduced as follows:-

*“The expression ‘control and supervision’ in the context of contract labor was explained by this court in International Airport Authority of India v. International Air Cargo Workers Union [2009 (13) SCC 374] thus: “If the contract is for supply of labor, necessarily, the labor supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by contractor, if the right to regulate employment is with the contractor, and the ultimate supervision and control lies with the contractor. The principal employer only controls and directs the work to be done by a contract labor, when such labor is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor.”*

The case of **Himmat Singh vs ICI India (2008) 3 SCC Preferred** to by learned counsel for Management the referred paragraphs of the judgment are being reproduced as follows:-

*“A few observations made by the High Court which are relevant need to be noted. It was held by the High Court as follows: “The labor court has held that the petitioners were not working as helpers to the fitters; they were not paid by the company; and were engaged on contract for intermittent work*

*i.e. they did not have regular or permanent work. The work that the petitioners do may be similar to the work of the workmen of the company, but they are not doing the work that is ordinary part of the industry. This is for reason that they- ? did not have permanent work; ? were engaged in intermittent work and ? themselves claimed to be workmen of the contractor Rehman in proceedings under Rule 25 of the Labor Contract Act and got benefit under the same."* 9. Similarly, the Labor Court noted that contractor Rehman had applied to the administration for licence under the State Contract Labor Act and considering the nature of the contract licence has been granted to him. 10. In *Steel Authority of India Ltd. v. Union of India & Ors.* [2006(12) SC 233] it was *inter-alia* held as follows: "*The workmen whether before the Labor Court or in writ proceedings were represented by the same Union. A trade Union registered under the Trade Unions Act is entitled to espouse the cause of the workmen. A definite stand was taken by the employees that they had been working under the contractors. It would, thus, in our opinion, not lie in their mouth to take a contradictory and inconsistent plea that they were also the workmen of the principal employer. To raise such a mutually destructive plea is impermissible in law. Such mutually destructive plea, in our opinion, should not be* <http://JUDIS.NIC.IN> SUPREME COURT OF INDIA Page 3 of 3 *allowed to be raised even in an industrial adjudication. Common law principles of estoppel, waiver and acquiescence are applicable in an industrial adjudication."* 11. In view of the factual position highlighted above and the ratio of the decision in *Steel Authority's case (supra)*, the inevitable result is that the appeal is *sans merit*, deserves dismissal, which we direct with no order as to costs.

**Airport Authority of India vs. Indian Airport Kamgar 2011 Vol.1 L.L.J page-II Bombay para 32,33,37** referred to by learned counsel for the Management. Wherein, award allowing reference regarding same character of engagement of contract labor was held now allowed in light of facts peculiar to the case referred.

Another case of **Post Master General vs. Tutudas (2007) 5 SCC 317**.

Wherein, it has been held that *illegal/improper grant of regularization to similarly situated persons does not create and entitlement to regularization on the ground of equal treatment under article 14 of constitution as equality is a positive concept and cannot be invoked where any illegality has been committed or where no legal right has been established.*

In another case **Dhampur Sugar Mills Vs Bhola Singh AIR 2005 SC page no 1790**, referred to by learned counsel for management it has been laid down that:

*completion of 240 days in continuous service may not itself be ground for regularization of service particularly in case when workmen had not been appointed in accordance with rules.*

The case of **Haldiya Employees Union Vs. Indian Oil Corporation 2005 CAB IC page 2078 SC** also referred to by learned counsel of which relevant paragraphs 15,16,17 & 20 specifically referred by the learned counsel are being reproduced as follows:-

*"No doubt, the respondent management does exercise effective control over the contractor on certain matters in regard to the running of the canteen but such control is being exercised to ensure that the canteen is run in an efficient manner and to provide wholesome and healthy food to the workmen of the establishment. This however does not mean that the employees working in the canteen have become the employees of the management. A free hand has been given to the contractor with regard to the engagement of the employees working in the canteen. There is no clause in the agreement stipulating that the canteen contractor unlike in the case of Indian Petrochemicals Corporation Ltd. & Another (supra) shall retain and engage compulsorily the employees who were already working in the canteen under the previous contractor. There is no stipulation of the contract that the employees working in the canteen at the time of the commencement of the contract must be retained by the contractor. The management unlike in Indian Petrochemicals Corporation Ltd. case (supra) is not reimbursing the wages of the workmen engaged in the canteen. Rather the contractor has been made liable to pay provident fund contribution, leave salary, medical benefits to his employees and to observe statutory working hours. The contractor has also been made responsible for the proper maintenance of registers, records and accounts so far as compliance of any statutory provisions/obligations are concerned. A duty has been cast on the contractor to keep proper records pertaining to payment of wages etc. and also for depositing the provident fund contributions with authorities concerned. Contractor has been made liable to defend, indemnify and hold harmless the employer from any liability or penalty which may be imposed by the Central, State or local authorities by reason of any violation by the contractor of such laws, regulations and also from all claims, suits or proceedings that may be brought against the management arising under or incidental to or by reason of the work provided/assigned under the contract brought by employees of the contractor, third party or by Central or State Government Authorities. The management has kept with it the right to test, interview or otherwise assess or determine the quality of the employees/workers with regard to their level of skills, knowledge, proficiency, capability etc. so as to ensure that the employees/workers*



*are competent and qualified and suitable for efficient performance of the work covered under the contract. This control has been kept by the management to keep a check over the quality of service provided to its employees. It has nothing to do with either the appointment or taking disciplinary action or dismissal or removal from service of the workmen working in the canteen. Only because the management exercises such control does not mean that the employees working in the canteen are the employee of the management. Such supervisory control is being exercised by the management to ensure that the workers employed are well qualified and capable of rendering the proper service to the employees of the management.”*

Following settled propositions of law emerges from the above referred decisions:-

A. The point whether the contract is sham, bogus and camouflage will arise only when the work contract which was allotted to the contractor was of non-prohibited category and also in cases where though the work contract which was allotted to the contractor was of non-prohibited category it become in prohibited category later on under the Notification issued by appropriate Government under Section 10(1) of CLRA Act.

B. In reaching at a point whether the work contract was sham bogus and camouflage, the relevant facts for consideration will be as to firstly, who was to exercise the effective supervision and control, secondly, at whose site, the workmen were engaged, thirdly, who paid the wages and fourthly, who provided instruments and training and other facts like this is settled in the aforesaid judgments. It is also settled that what is the effective control and supervision from industry to industry and control and supervision is not only criteria for reaching at the conclusion whether the work contract was sham, bogus or camouflage also what effective control and supervision is shall differ from industry to industry fact wise.

Learned counsel for the workmen further submits that this Tribunal is obligated to lift the veil and see the facts taking into account the total circumstances of the case in coming to the conclusion whether the contract is sham, bogus and nongenuine. He further submits that may be apparently the work contract may appear legal but this Tribunal will have to lift the veil in this case to do full justice between the parties. Learned counsel has referred to para-18 and 21 of the case “General Manager, Oil and Natural Gas Commission, Silchar Vs. Oil and Natural Gas Commission Contractual workers Union, (2008)12 Supreme Court Cases 275”.

1. The relevant portion of the judgement is quoted below: -

*“Para-18: We, however, believe that this present case is not one of regularization simpliciter such as in the case of an ad hoc or casual employee claiming this privilege. The basic issue in the present case is the status of the workmen and whether they were the employees of ONGC or the contractor and in the event that they were the employees of the former, a claim to be treated on a par with other such employees. As would be clear from the discussion a little later, this was the basic issue on which the parties went to trial, notwithstanding the confusion created by the ill-worded reference.*

*Para-21: Even ONGC had admitted that since 1988, there was no licensed contractor and that wages were being paid through one of the leaders of Union, and one person who was named as contractor, was in fact himself a workmen whose name appeared in acquaintance roll. Real issue therefore was regarding status of workmen as employees of ONGC or of contractor, and it having found that workmen were employees of ONGC, they would ipso facto be entitled to benefits available in that capacity. Issue of regularization would therefore pale in insignificance. The Industrial Tribunal and Division Bench of the High Court were justified in lifting the veil in order to determine nature of employment.”*

Learned Senior Counsel for Management has referred to Judgment of Supreme Court Oshiar Prasad &Ors. Vs. Employees in relation to management Sudam-D coal washery of BCCI Dhanbad- 2015-ILLJ-513SC para-25 which is as follows-

*It is thus clear that the appropriate Government is empowered to make a reference under Section 10 of the Act only when "Industrial dispute exists" or "is apprehended between the parties". Similarly, it is also clear that the Tribunal while answering the reference has to confine its inquiry to the question(s) referred and has no jurisdiction to travel beyond the question(s) or/and the terms of the reference while answering the reference. A fortiori, no inquiry can be made on those questions, which are not specifically referred to the Tribunal while answering the reference.*

The reference has been mentioned In this Judgment earlier, is regarding the action of the non-regularization of the workmen, whether it is legal or justified and if it is not then what relief the workmen are entitled to . Hence, **the fact in issue** is whether non-regularization of the workmen who performed various duties in Incline is legal and justified or not and **the relevant facts to decide the fact in issue** will be whether Colliery get

settled in the light of the pleadings of the parties in respect of their rival claims. Hence, there is no question of travelling beyond reference in this case but **while in the process of reaching at the conclusion with regard to the fact in issue, whether the so called agreements were sham or genuine or it is camouflage to deny the workmen of their benefits under law is a relevant fact and to record finding in this respect naturally the veil has to be lifted.**

It is further submitted by learned counsel for workmen Union that the burden of proof lies on management to prove that the concerned workers are contract labor and also the contract is genuine. Union placed reliance on the judgment reported in the case of “Caparo Engineering India Limited Vs. Pradhanmantri Engineering Shramik Sanghathan, 2019 (1)MPLJ 147.” The relevant portion is reproduced below: -

***“(b) Evidence Act, S.102 – Burden of proof – Petitioner-company’s case that employees are contract labor – therefore, Labor Court has rightly shifted burden on them to establish this – No error committed by Labor Court while directing petitioner to lead evidence and prove that respondents are contract laborers (para-31)”***

The learned counsel for Union alternatively submits that even in the circumstances, the Union has not been able to prove that they were working in prohibited category of work notified by the Government of India, even then from the pleadings of the Union, the employer-employee relationship between the management and the workmen is clearly established.

Now coming into the fact and evidence in the present case in the light of settled provisions as mentioned in the case laws referred to from both the sides. The submission of workmen Union on this point is that in fact, the workmen were engaged by the Management and wanted to deprive them of their legally admissible due to management set up camouflage contractor and has given the color of work done under the contractor by a contract labor. According to the workmen/Union, the management engaged a contractor for payment of less wage as a smoke screen and a camouflage in the eyes of law. The purpose was to deny the rights and other rights to the workmen. The learned Senior Counsel for management has submitted that the overall control and supervision was that of the contractor. The management was only concerned with the work and had limited control and supervision over the workmen. Also, it has been submitted that instrument and vocational training was provided in the light of rules provided in this respect. Payment of wages were made by the contractor under supervision of management as the rules provided for this, hence the fact that the agreement was a sham and a camouflage cannot be held proved, as submitted by learned counsel for management.

From the evidence in the form of witness and documents, the management does not deny that the work of the workmen was supervised by management. According to management, it was a limited supervision and control and management also does not deny that work was given to the management by the workmen and also that the instruments ie; light lamp and other instruments were supplied by the management. Management also does not deny that payment of wages was made under their supervision but has put a caveat that payment was made by the contractor under the supervision of management as it was provided in the work agreement & rules.

The allegation that the workmen were doing their duties under the strict supervision of management of SECL, they were given vocational training and issued certificate for the job, tools for the job were also supplied by the management, they worked under the supervision and control of the Management, is corroborated by the workman witnesses and could not be discredited in their cross examination on this point. This fact, coupled with the fact that they were engaged in the work in violation of CLRA Act because of their work being of prohibited nature, clearly establishes that the contract and the contractor as well as theory of contract set up by management is simply a false and fake. **It is a sham and camouflage to deny the workmen of their legally admissible dues is held proved from record.**

In all the case laws referred to by the learned counsel for the parties, one thing is common is that the work contracts were in non prohibited category when they were allotted to the Contractors. They came under prohibited category only later on whereas in the case in hand on the basis of evidence on record it has been established that the so called work contract between the employer and contractor was prohibited by law being in violation of Notification under Section 10(1) of the CLRA Act prohibiting work of that type being taken by contractors long before the contractor was engaged to execute the work done by the principal employer. Hence the referred cases can be easily distinguished from the case in hand on this point as mentioned earlier. It is not disputed between the parties that vocational training was given by the Management to the workers, tools were provided by the Management to the workers. Management exercised control and supervision on day to day working of the workmen and wages were paid in person by the Management and its representatives. According to the Management counsel all this was done as it was so provided in the work contract.

Reference of Section 2(d) of Indian Contract Act requires to be taken here which define all the contract as it is so because CLRA Act does not define contract. Section 2(d) reads as under:-

**“Contract is an agreement enforceable by law.”**

According to **Section 23 of Indian Contracts Act** which deals with the as what consideration and object are lawful and what not is being reproduced as follows:-

**“what considerations and objects are lawful and what not-....**

**The consideration or object of an agreement is lawful unless-**

**It is forbidden by law, or**

**Is of such nature that, if permitted, it would defeat the provision of any law or is.....**

**.....”**

**Similary Section 24** of the said Act is also being reproduced as follows:-

**“If any part of a single consideration for one or more objects, or any or any part of several considerations for a single object, is unlawful, the agreement is void.”**

In the light of the above noted provisions of Indian Contract Act **since the work agreement between the Management and the contractor was against prohibitions of law as it defeats the provisions of NCWA and Section 10(1) of the CLRA Act at the very moment it was entered into by them because these prohibitions were enforced before the agreement was entered into by the parties will be void ab initio in law meaning thereby there is no contract at all as per law between the parties.** Thus it is not legally permissible on the part of Management to contend that all the work of supervision, training and other actions detailed earlier were in the light of terms of the work agreement because the said work agreement are *void ab initio*, as discussed above right from the date of the agreements. The natural inference/consequences of this will be that it will be deemed that in fact the control of supervision of workers by Management, training of worker's management, providing tools and instruments by Management etc. where done by the Magistrate on their own. It cannot be taken to be done if the work contract is *void ab initio*, admitted is the fact between the parties is that the said workmen worked on the sight which was owned by the Management i.e. is to say that the work place was the premises of Management i.e. principal employer.

38. Hence following facts are held proved in the light of above discussion which is as follows:-

**(1) The work agreement was violative of legal provisions and prohibitions from the date and moment the Management and contractor entered into the agreement.**

**(2) Since the object of the work agreement was not to defeat the provisions of law i.e. to say not lawful hence all the three work agreements are void ab initio from their date of inception.**

**(3) As the work agreement are void ab initio , hence cannot be held that Management control and supervision and other actions as discussed above, was done by Management in the light of the terms of the work agreement i.e ,under a legally enforceable agreement.**

39. Accordingly, in the light of above provisions, this Tribunal is constrained **to hold that the work agreement between the principal employer and allotted to contractor was sham, bogus and camouflage, defeating the provisions of law, the sole aim of which was to deprive the workmen of their legally admissible claims, stands proved.**

**Issue No.2 is answered accordingly.**

#### **40. Issue No.3:-**

In the light of the findings recorded earlier at Issue No.1 & 2 the workmen who were engaged via the sham and bogus agreement as a camouflage shall be deemed to be under employment of the Principal employer which is SECL and are held so.

42. Perusal of the record reveals that there is a list of 112 workers Annexed to the reference who to the workmen Union according workmen Union were engaged in the aforesaid activity. It came out that one of the workmen Vijay at serial No.33 has filed application dated 6-11-2006 not to press the claim due to some clerical mistake in the name of his father for which the Union is said to have taken the matter with the Labor Ministry for correction. Hence the claim of this workman Vijay on this point is not considered.

The contractor staff in his statement on oath has not denied the claim of the workmen/Union that as many as 132 workers were engaged by them for executing the work. Perusal of the record further reveals that this contractor did not appear before the Court for his evidence. It also comes out that under order of the workmen/Union filed a list, of 132 persons along with their parentage, identity, details of address and the witness who is staff of the contractor as the workman side witnesses have proved the list.

The workmen witnesses have stated on oath that 132 workmen as mentioned in the list annexed to the reference were engaged in the work, they worked in three shifts but their statements cannot be taken as corroborated with the work or of the work included in the list annexed to the reference were actually engaged.

The workmen/Union has also filed Vocational Training Certificates of 32 workers but no witness has been examined from the side of Union to prove this list, hence this list also cannot be taken as correct of the case of workmen on the point of identity of workmen.

Reference of Section 2(oo) of Industrial Disputes Act, Section 25(b)(2), Section 25(f) and Section 25(N) of Industrial Dispute Act, 1947 are being reproduced as follows:-

**2[(oo) “retrenchment” means the termination by the employer of the service of a workmen for any any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include— (a) voluntary retirement of the workmen; or (b) retirement of the workmen on reaching the age of superannuation if the contract of employment between the employer and the workmen concerned contains a stipulation in that behalf;**

**25F. Conditions precedent to retrenchment of workmen.—No workmen employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until— (a) the workmen has been given one month’s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workmen has been paid in lieu of such notice, wages for the period of the notice; (b) the workmen has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days’ average pay 2 [for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3 [or such authority as may be specified by the appropriate Government by Notification in the Official Gazette].**

**25N. Conditions precedent to retrenchment of workmen.—**

**(1) No workmen employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—**

**(a) the workmen has been given three months’ notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workmen has been paid in lieu of such notice, wages for the period of the notice; and**

**(b) the prior permission of the appropriate Government or such authority as may be specified by that Government by Notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.**

**(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.**

**(3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.**

**(4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.**

**(5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.**

**(6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workmen, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication: Provided that where a reference has been made to a**

Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workmen and the workmen shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct, that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workmen who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.

**25F- Conditions precedent to retrenchment of workmen.—**No workmen employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workmen has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workmen has been paid in lieu of such notice, wages for the period of the notice;

(b) the workmen has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by Notification in the Official Gazette.

#### Section 25.B.

##### Definition of continuous service:-

Where a workmen is not in continuous service within the meaning of clause(1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer-

a. For a period of one year, if the workmen, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-

(i) one hundred and ninety days in the case of a workmen employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) For a period of six months, if the workmen, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-

(i) ninety-five days, in the case of workman employed below ground in a mine and

(ii) one hundred and twenty days, in any other case.

Explanation-For that purposes of clause (2), the number of days on which a workmen has actually worked under an employer shall include the days on which-

(i) he has been laid off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Act or under any other law applicable to the Industrial establishment;

(ii) he has been on leave with full wages, earned in the previous years;

**(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and**

**(iv) In the case of a female, she has been on maternity leave; so however, that the total period of such maternity leave does not exceed twelve weeks.**

51. Now further point arise whether it is proved from the evidence on record that the aforesaid workmen worked for a period of 190 days as mentioned under Section 25 and Section 21(a) of the Industrial Disputes Act, 1947 which applies to mines and is applicable in the case in hand or not ?

52. The workmen witnesses have stated that they worked continuously and documents produced by Management regarding contract and execution of work also states that they worked continuously for two years preceding date of their disengagement. There is nothing on record to indicate otherwise and it is admitted by Management and its witnesses that the work continued up to December 30, 1991 hence referred above, their case that they worked for a period of 190/240 days in the year preceding their disengagement is held proved.

**Since it is not the case of the Management that any notice or compensation was given to the workmen, their disengagement is held against law and fact.**

**Issue No.3 is answered accordingly.**

#### **53. Issue No.4**

In the light of the findings recorded while discussing the Issue No.1,2 and 3, now the question arises as to what relief the workers who have been held to be in employment of Management of SECL and their disengagement is legally unjustified

54. According to the learned Counsel for Management, their reinstatement and regularization will not be justifiable keeping in view the facts that firstly most of the workmen would have crossed the age of superannuation and secondly they cannot be regularized as they were not in service, when the reference was made to the dispute. Learned Counsel for Management has again placed reliance on case of Oshiyar Prasad(Supra). In the said case of Oshiyar Prasad, the workmen were held entitled to retrenchment compensation.

55. The settled proposition of law is that when the disengagement of the workmen is found violative of Section 25(G) of Industrial Dispute Act, 1947 or when it is found that a workman has been retrenched against law, he has to be either reinstated with or without back wages or be given compensation in lump sum as his claim. In the case in hand also the disengagement/retrenchment of the 42 workmen has been held legally unjustified, hence these workmen have the right to be reinstated with or without back wages and service benefits life absorption/regularization etc. or lump sum compensation in lieu of their rights to be paid to them. In the case in hand the dispute first started in 1995 and has taken around 20 years to be decided.

Since, now many workmen would have crossed the age of superannuation, financial condition as well as availability of the work with the employer company is also to be looked into. Hence keeping in view the facts of the case in hand the ends of justice will be served if a lump sum compensation in lieu of wages after re-instatement, right to regularization and other consequential service benefits be granted to them. In the light of the facts and circumstances of the case in hand, lump sum compensation of Rs.2 lacs (Rs.2,00,000/-) to each of the 42 workman will meet the ends of justice. Keeping in view the period litigation and its chequered history workman Union also deserves to be paid the cost of litigation.

**Issue No.4 is answered accordingly.**

**Accordingly the award is passed as follows:-**

- A. The action of SECL in disengaging the 132 workers and not regularizing them is held unjustified in law and fact.**
- B. The aforesaid workers are held entitled to get Rs. 2 lac (Rs. 2,00,000/-) per person as lump sum compensation in adjustment of their rights, to be paid to them by management within 30 days from the date of publication of Award in Official Gazette, failing which interest @ of 8% per annum from the date of Award till payment.**
- C. The cost of the litigation Rs. 50,000/- (Fifty thousand only) will also be paid by Management of SECL to the workmen/Union.**

Let the copies of the award be sent to the Government of India, Ministry of Labor & Employment as per rules.

Date: 02/05/2024.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 जून, 2024

**का.आ. 1133.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर/40/2013,135/2012,3/2013,10/2013,49/2013,15/2013,95/2013,85/2013,84/2013,42/2013,16/2013,6/2013,143/2012,8/2013,141/2012,45/2013,39/2013,97/2013,46/2013,4/2013,14/2013,2/2013,9/2013,37/2013,140/2012,134/2013,11/2013,142/2013,5/2013,47/2013,83/2013,17/2013,144/2013,7/2013,96/2013 and 86/2013)को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[सं. एल-22012/254/2012-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 10th June, 2024

**S.O. 1133.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC/R/40/2013,135/2012,3/ 2013,10/2013,49/2013,15/2013,95/2013,85/2013,84/2013,42/2013,16/2013,6/2013,143/2012,8/2013,141/2012,45/2013,39/2013,97/2013,46/2013,4/2013,14/2013,2/2013,9/2013,37/2013,140/2012,134/2013,11/2013,142/2013,5/2013,47/2013,83/2013,17/2013,144/2013,7/2013,96/2013 and 86/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 06/06/2024.

[No. L-22012/254/2012- IR (CM-II)]

MANIKANDAN. N, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

Present: P.K.Srivastava

H.J.S..(Retd)

#### 1. CGIT/LC/R/40/2013

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri OCM, PO- Dhanpuri

Dist-Shahdol (MP)

Vs

The General Manager, Sohagpur Area,

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

....LEADING CASE

#### WITH CONNECTED CASES

#### 2. CGIT/LC/R/135/2012

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri OCM, PO- Dhanpuri

Dist-Shahdol (MP)

Vs

The General Manager, Sohagpur Area,

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)



**3. CGIT/LC/R/3/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area,

SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**4. CGIT/LC/R/10/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area,

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**5. CGIT/LC/R/49/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area,

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**6. CGIT/LC/R/15/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area,

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**7. CGIT/LC/R/95/2013**

The Secretary

Koyla Shramik Sangh (CITU) Branch-Baiga OCM

Qr. No. DB 37, Sanja nagar, PO-Sanjaynagar

Dist-Shahdol (MP)

*Vs*

The Sub Area Manager

Baiga OCM Burhar Gr. of SECL,

PO – Dhanpuri, Distt.- Shahdol (MP)

**8. CGIT/LC/R/85/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**9. CGIT/LC/R/84/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**10. CGIT/LC/R/42/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**11. CGIT/LC/R/16/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area,

SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**12. CGIT/LC/R/6/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area,

SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**13. CGIT/LC/R/143/2012**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**14. CGIT/LC/R/8/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area

SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**15. CGIT/LC/R/141/2012**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**16. CGIT/LC/R/45/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**17. CGIT/LC/R/39/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**18. CGIT/LC/R/97/2013**

The Secretary

Koyla Shramik Sangh (CITU) Branch-Baiga OCM

Qr. No. DB 37, Sanja nagar, PO-Sanjaynagar

Dist-Shahdol (MP)

*Vs*

The Sub Area Manager

Baiga OCM Burhar Gr. of SECL,

PO – Dhanpuri, Distt.- Shahdol (MP)

**19. CGIT/LC/R/46/2013**

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

**20. CGIT/LC/R/4/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area,

SECL, Po- Dhanpuri, Shahdol

**21. CGIT/LC/R/14/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area,

SECL, Po- Dhanpuri, Shahdol

**22. CGIT/LC/R/2/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area,

SECL, Po- Dhanpuri, Shahdol

**23. CGIT/LC/R/9/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area,

SECL, Po- Dhanpuri, Shahdol

**24. CGIT/LC/R/37/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area,

SECL, Po- Dhanpuri, Shahdol

**25. CGIT/LC/R/140/2012**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Shahdol

**26. CGIT/LC/R/134/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Shahdol

**27. CGIT/LC/R/11/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area

SECL, Po- Dhanpuri, Shahdol

**28. CGIT/LC/R/142/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Shahdol

**29. CGIT/LC/R/5/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area

SECL, Po- Dhanpuri, Shahdol

**30. CGIT/LC/R/47/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Shahdol

**31. CGIT/LC/R/83/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area

of SECL, Po- Dhanpuri, Shahdol

**32. CGIT/LC/R/17/2013**

The Secretary

Koyla Shramik Sangh( CITU)

Branch- Dhanpuri-OCM, PO- Dhanpuri

Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area

SECL, Po- Dhanpuri, Shahdol

**33. CGIT/LC/R/144/2013**

The Secretary  
Koyla Shramik Sangh( CITU)  
Branch- Dhanpuri-OCM, PO- Dhanpuri  
Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area  
Of SECL, Po- Dhanpuri, Shahdol

**34. CGIT/LC/R/7/2013**

The Secretary  
Koyla Shramik Sangh( CITU)  
Branch- Dhanpuri-OCM, PO- Dhanpuri  
Dist-Shahdol (MP)

*Vs*

The Chief General Manager, Sohagpur Area  
SECL, Po- Dhanpuri, Shahdol

**35. CGIT/LC/R/96/2013**

The Secretary  
Koyla Shramik Sangh( CITU), Branch- Baiga OCM,  
Qr. No. DB 37, Sanja Nagar, PO- Sanjaynagar,  
Dist-Shahdol (MP)

*Vs*

The Sub Area Manager  
Baiga OCM Burhar Gr. of SECL,  
PO – Dhanpuri, Distt.- Shahdol (MP)

**36. CGIT/LC/R/86/2013**

The Secretary  
Koyla Shramik Sangh( CITU)  
Branch- Dhanpuri-OCM, PO- Dhanpuri  
Dist-Shahdol (MP)

*Vs*

The General Manager, Sohagpur Area  
Of SECL, Po- Dhanpuri, Distt.- Shahdol (MP)

**(J U D G E M E N T)**

**(Passed on this 30<sup>th</sup> day of April 2024)**

After receiving the references, cases were registered and notices were sent to the parties. They appeared and filed their respective statements of claim and defence in each case.

In the case R/40/2013 As per letter dated 13/02/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/254/2012 IR(CM-II) dt. 13/02/2013. The dispute under reference relates to:

***“Whether the action of General Manager Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No.-32 to Suresh Kumar Verma Dumper Operator of Dhanpuri OCM of SECL is legal and justified ? If not, to what relief the workman is entitled for ?”***



In the case R/135/2012 As per letter dated 20/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/187/2012 IR(CM-II) dt. 20/11/2012. The dispute under reference relates to:

***“Whether the action of General Manager Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No.- 32 to 15 senior mechanics (list enclosed) of the Dhanpuri OCM of SECL, is legal and justified ? To what relief the claimants are entitled for ?”***

In the case R/3/2013 As per letter dated 01/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/212/2012 IR(CM-II) dt. 01/01/2013. The dispute under reference relates to:

***“Whether the action of General Manager Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No.- 32 to Shri Amarnath Singh, Electrician, Dhanpuri OCM of SECL, is legal and justified ? To what relief the workman is entitled for ?”***

In the case R/10/2013 As per letter dated 01/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/219/2012 IR(CM-II) dt. 01/01/2013. The dispute under reference relates to:

***“Whether the action of General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No.- 32 to Shri Sunil Singh, Electrician, Dhanpuri OCM of SECL, is legal and justified ? To what relief the workman is entitled for ?”***

In the case R/49/2013 As per letter dated 05/03/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/257/2012 IR(CM-II) dt. 05/03/2013. The dispute under reference relates to:

***“Whether the action of General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No.- 32 to Shri Devender Pratap Singh, Dumper Operator, Dhanpuri OCM of SECL, is legal and justified ? If not, to what relief the workman is entitled for ?”***

In the case R/15/2013 As per letter dated 16/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/237/2012 IR(CM-II) dt. 16/01/2013. The dispute under reference relates to:

***“Whether the action of General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No.- 32 to Shri S.P. Mishra, Dragline Operator, Dhanpuri OCM of SECL, is legal and justified ? If not, to what relief the workman is entitled for ?”***

In the case R/95/2013 As per letter dated 12/11/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/147/2013 IR(CM-II) dt. 12/11/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No.- 32 to Shri Vinor Kumar Soni, Shavel Operator, S/Sri Ram Raj Verma, Ramashankar Tripathi, Drill Operators Baiga OCM of SECL, is legal and justified ? If not, to what relief the workman is entitled for ?”***

In the case R/85/2013 As per letter dated 21/08/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/93/2013 IR(CM-II) dt. 21/08/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No.- 32 to Shri D.P. Shukla, Foreman Incharge, Dhanpuri OCM of SECL, is legal and justified ? If not, to what relief the workman is entitled for ?”***

In the case R/84/2013 As per letter dated 21/08/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/95/2013 IR(CM-II) dt. 21/08/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of implementation instructions No. 32 to Shri Umashanker Shrivastav & 08 Others (Operatons) (List attached), Dhanpuri OCM of SECL, is legal and justified ? If not, to what relief the workman is entitled for ?”***

In the case R/42/2013 As per letter dated 18/02/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/258/2012 IR(CM-II) dt. 18/02/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Ram Siya Tripathi, Dumper Operator, Dhanpuri OCM of SECL, is legal and justified ? If not, to what relief the workman is entitled for ?”***

In the case R/16/2013 As per letter dated 16/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/235/2012 IR(CM-II) dt. 16/01/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Sudarshan Saket, Dragline Operator, Dumper Operator, Dhanpuri OCM of SECL, is legal and justified ? If not, to what relief the workman is entitled for ?”***

In the case R/6/2013 As per letter dated 01/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/215/2012 IR(CM-II) dt. 01/01/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Vijay Sharma, Electrician, Dhanpuri OCM of SECL, is legal and justified ? To what relief the workman is entitled for ?”***

In the case R/143/2012 As per letter dated 30/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/192/2012 IR(CM-II) dt. 30/11/2012. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to 20 Foremans (Mech/Elect.) (List attached) of the Dhanpuri OCM of SECL, is legal and justified ? To what relief the claimants are entitled for ?”***

In the case R/8/2013 As per letter dated 01/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/217/2012 IR(CM-II) dt. 01/01/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Ganesh Prasad, Electrician, Dhanpuri OCM of SECL, is legal and justified ? To what relief the workman is entitled for ?”***

In the case R/141/2012 As per letter dated 30/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/191/2012 IR(CM-II) dt. 30/11/2012. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to 44 E.P. Fitters (List enclosed) of the Dhanpuri OCM of SECL, is legal and justified ? To what relief the claimants are entitled for ?”***

In the case R/45/2013 As per letter dated 11/02/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/249/2012 IR(CM-II) dt. 11/02/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Brijraj Kishor Shukla, Grader Operator, Dhanpuri OCM of SECL, is legal and justified ? If not, to what relief the workman is entitled for ?”***

In the case R/39/2013 As per letter dated 11/02/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/252/2012 IR(CM-II) dt. 11/02/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Jaypal Singh, Dumper Operator, Dhanpuri OCM of SECL, is legal and justified ? If not, to what relief the workman is entitled for ?”***

In the case R/97/2013 As per letter dated 12/11/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/145/2013 IR(CM-II) dt. 12/11/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Triveni Prasad Beas, E.P. Fitter OCM of SECL, is legal and justified ? If not, to what relief the workman is entitled for ?”***

In the case R/46/2013 As per letter dated 11/02/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/250/2012 IR(CM-II) dt. 11/02/2013. The dispute under reference relates to:

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Girdhar Prasad Shrivastava, Dumper Operator, Dhanpuri OCM of SECL, is legal and justified? If not, to what relief the workman is entitled for?”***

In the case R/04/2013 As per letter dated 01/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/213/2012 IR(CM-II) dt. 01/01/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Mahendra Pandey, Electioncian, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/14/2013 As per letter dated 16/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/236/2012 IR(CM-II) dt. 16/01/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Mahesh Singh, Dragline Operator, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/02/2013 As per letter dated 01/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/211/2012 IR(CM-II) dt. 01/01/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Nagesh Pandey, Electrician, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/09/2013 As per letter dated 01/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/218/2012 IR(CM-II) dt. 01/01/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Ramnaresh Singh, Electrician, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/37/2013 As per letter dated 11/02/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/239/2012 IR(CM-II) dt. 11/02/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Rajesh Kumar, Dragline Operator, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/140/2012 As per letter dated 30/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/189/2012 IR(CM-II) dt. 30/11/2012. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to 08 E.P. Welders (list enclosed) of the Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/134/2012 As per letter dated 20/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/186/2012 IR(CM-II) dt. 20/11/2012. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to 08 Dumper Operators & 7 Dozer Operators (list enclosed) of the Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/11/2013 As per letter dated 01/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/220/2012 IR(CM-II) dt. 01/01/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Julfikar Ali, Electrician, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/142/2012 As per letter dated 30/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/190/2012 IR(CM-II) dt. 30/11/2012. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to 09 Auto Electrician Cum Fitters, 1 Machinist and 2 Drivers (list enclosed) of the Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/05/2013 As per letter dated 01/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/214/2012 IR(CM-II) dt. 01/01/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Jahid Khan, Electrician, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/47/2013 As per letter dated 13/02/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/251/2012 IR(CM-II) dt. 13/02/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Ramnarayan Prasad Namdev ,Operator, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/83/2013 As per letter dated 21/08/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/92/2013 IR(CM-II) dt. 21/08/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Santosh Kumar Tripathi & Shri Mohan Singh Rathor,E.P. Electrician, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/17/2013 As per letter dated 16/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/226/2012 IR(CM-II) dt. 16/01/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Ramji Singh, Electrician, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/144/2012 As per letter dated 30/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/188/2012 IR(CM-II) dt. 30/11/2012. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to 07 E.P.G.H. (list enclosed) of the Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/07/2013 As per letter dated 01/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/16/2012 IR(CM-II) dt. 01/01/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Baijnath Prasad, Electrician, Dhanpuri OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/96/2013 As per letter dated 12/11/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/146/2013 IR(CM-II) dt. 12/11/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Suresh Singh, Electrician, Dozer Operator OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

In the case R/86/2013 As per letter dated 21/08/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.

Act, 1947 as per Notification No. L-22012/94/2013 IR(CM-II) dt. 21/08/2013. The dispute under reference relates to :

***“Whether the action of the General Manager, Sohagpur Area of SECL, in not granting the benefits of Implementation Instructions No. 32 to Shri Deep Chand Singh & 11 Others (List attached), Shovel Operators, Dozer Operator OCM of SECL, is legal and justified? To what relief the workman is entitled for?”***

The **case of the workman** side in all these cases is one and same. According to the workman side Implementation Instruction no.-32 was issued by the Coal India after consultation and an agreement with all Central Trade Unions/ Constituted Members of JBCCI and signatories of National Coal Wage Agreement-VI (In short NCWA-VI). It was applicable to all the subsidiaries of Coal India including its subsidiary South Eastern Coal Fields Limited (In short SECL). A Circular dated 27.07.2001 issued by the Director (Personnel) of Coal India stating that ITI Certificate holders shall be placed in higher grade/ category after completing one year of apprenticeship in the company. The pattern of wages/grade/scale was laid down by JBCCI in NCWA-VI at page no.-57. It is further the case of workmen side these instructions in Implementation.Instructions.-32(in short II-32) were implemented in all the subsidiaries of Coal India and benefits were granted to the ITI personnel except in some units of SECL. The Sohagpur Area of SECL implemented it in some sub areas/units but not any Dhanpuri OCM. According to the workmen side Circular no.- 990 dated 31.12.2002 was issued by Director (Personnel) SECL denying benefits of I.I.-32 to its workmen and deprived the applicant workmen of promotion and placement in higher grade/ category as per I.I.-32 dated 22.01.2002 which is in violation of NCWA-VI. As stated by the workmen union, this Circular no.- 990 dated 31.12.2002 was against the provisions of NCWA-VI which was accepted by the Coal India and was implemented in all of the subsidiaries of Coal India including SECL. It was beyond the competence of Director (Personnel) SECL to change the terms of NCWA-VI by way of an executive order vide Circular no.- 990 dated 31.12.2002 when he was not delegated any such power by Coal India. This Circular is arbitrary and is violative of Article 14 of Constitution of India, hence has no force of law. Any action denying benefits to the workman admissible to them in NCWA-VI and I.I.-32 under this Circular is against law. The workmen union has accordingly prayed the following –

- 1) Direct the management of SECL to implement I.I.-32 issued under NCWA-VI with respect to the workmen dumper operators who are ITI personnel hiring undergone one year apprenticeship in SECL and be placed in higher grade/category with all benefits retrospectively.
- 2) Direct the management to pay all consequential attendant benefits thereof forthwith.
- 3) Direct the management to restore the benefits enjoyed by the workmen but withdrawn by management under Order No.- 350 dated 04.02.2003/16.03.2003 retrospectively with all consequential/resultant benefits.

**Case of management**, in these cases is mainly that **firstly**, the Union Koyla Shramik Sabha has no locus standi to raise the dispute. **Secondly**, according to the management, the claim of the workmen union is based on wrong interpretation of I.I.-32. Management admits that I.I.-32 as well NCWA-VI is applicable on all the subsidiaries of Coal India including the management of SECL. Management has further stated that the impugned Circular dated 31.12.2002 was issued with regard to implementation of I.I.-32 and was given wide publicity. None of the unions raised any objection on this Circular except the applicant union. According to the management I.I.-32 was meant only for E&M Cadre and Excavation Cadre ITI holders who were working as General Mazdoor Category-I and Helper Category-II. It is also the case of management that all ITI holders who have joined and working in different other cadres i.e. Dumper Operator/Dozer Operator, Clerical, Driver, HEMM Operator and others engaged in other jobs in other cadre schemes on their selection/posting from E&M Cadre and Excavation Cadre were not entitled to be placed in higher category, hence operator like Driver/Dumper Operator/SDL Operator will not get this benefit. Also, it has been stated that this was one time arrangement under I.I.-32 when the Circular of Coal India dated 22.01.2002 was issued and those who were not eligible at that time could not get benefit. Hence, according to the management, it was justified in withdrawing the benefits wrongly granted. The management has accordingly prayed that the reference be answered against the workmen.

No rejoinder has been filed by workmen union.

**In evidence**, workmen side have examined themselves and have been cross examined. Workmen side has filed and proved documents Ex. W/1 to W/38, which are different Circulars and RTI queries, to be referred to as and when required. Management has examined its witness who has been cross examined. Management has filed Ex. M/1 to M/5, to be referred to as and when required.

**I have heard argument** of Mr. Subodh Agrawal, learned Counsel for workmen side and Mr. Anoop Nair, Senior Counsel assisted by Mr. Neeraj Kewat for management. Workmen side has filed written arguments also which is part of record, management has not filed any written argument. I have gone through the record and the written arguments.

On perusal of record in the light of rival arguments, following issues come up for determination in the case in hand:-

- 1- *Whether the Director (Personnel) SECL had lawful authority and was it within his competence to issue the Circular no.- 990 dated 30/31.12.2002 superseding Circular Dt 21-02-2002, issued by Director (Personnel) Coal India under I.I.-32?*
- 2- *Will the Circular No.- 990 dated 30/31.12.2002 issued by the Director (Personnel) SECL override the Circular dated 22.01.2002 issued under I.I.-32 by Coal India ?*
- 3- *Whether the Circular no.- 990 dated 30/31.12.2002 issued by Director (Personnel) SECL is arbitrary & violative of Article 14 of Constitution ?*
- 4- *Whether the action of management of Sohagpur Area of SECL in not granting benefits of I.I.-32 to the workmen who happen to be the Dumper Operators of Dhanpuri OCM under the cover of Circular no.- 990 dated 30/31.12.2002 ?*
- 5- *Relief if any, the workmen are entitled to ?*

#### Issue No.-1 & 2 :-

Since Issue no.-1 & 2 are related to each other, they are being taken together. The Circular issued by Coal India on 22.01.2002 under I.I.-32 (the relevant portion) is being reproduced as follows :-

*"1.(a). ITI Certificate holders with one year course plus one year training at the time of induction will be placed in category-II and they will be under training for one year in the company.*

*(b). After completion of one year training such trainees in category-II will be regularize in category-III.*

*(c). The ITI Certificate holders with two years course plus one year training at the time of induction will be placed in category-III and they will be under training for one year in the company.*

*(d). The trainees in category-III will be regularized in category-IV after completion of one year training in E&M Cadre. The trainees working in Excavation will be regularized in Excavation D. (emphasis supplied)*

*2. Existing ITI Personnel who have completed 3 years in existing grade as on 31.12.1999 will be notionally placed in next higher category/grade w.e.f. 01.01.2000 but financial benefit will accrue w.e.f. 01.01.2001 and this will be personal to them as gone time arrangement.*

*3.....*

*4.....*

The Circular no.- 990 issued by Director (Personnel) SECL which is under attack, the relevant portion is being reproduced as follows:-

*(1 to 4).....*

*(5). Operator like Dumper Operator/Driver/SDL Operator etc. will not get this benefit.*

It is not disputed that Coal India is the parent organization and companies like SECL and other Coal Companies are its subsidiaries. Hence, bound by the instructions issued by the parent organization Coal India. The Circular dated 22.01.2002 issued under I.I.-32 by Coal India applies to all of its subsidiaries including SECL. Management could not produce any Rule or Provision authorizing any of subsidiaries of Coal India to issue instructions/Circulars overriding the instructions/Circulars issued by Coal India. It is evident from perusal of these Circulars that the Circular no.- 990, issued by the Director (Personnel)SECL, which is under attack, is not in conformity the Circular dated 22.01.2002, issued by Coal India to the extent it denies benefit of the Circular dated 22.01.2002 issued by Coal India to operators like Dumper Operator/Driver/SDL Operator etc. **Hence, issued by the Director (Personnel) SECL was not competent to issue the impugned Notification/ Circular No.- 990, overriding fully or partially the Circular dated 22.01.2002 issued by Coal India and the Circular No.- 990 dated 30/31.12.2002 issued by the Director (Personnel) SECL override the Circular dated 22.01.2002 issued under I.I.-32 by Coal India**

Issue No.-1 & 2 are answered accordingly.

#### Issue No.-3:-

The Circular dated 22.01.2002 issued by Coal India in para 1.(d). states that after completion of one year training, the trainees in Category-III will be regularized in Category-IV. The trainees in Excavation will be regularized in Excv. D (Excavation Department) the impugned Circular no.- 990 issued by Director (Personnel) SECL states that operators like Dumper Operator/Driver/SDL Operator etc. will not get benefit. These operators are



of Excavation Cadre and this fact is not disputed. When the parent Circular does not discriminate between ITI Certificate holders in two cadres, i.e. E&M and Excavation such discrimination at subsidiary level is nothing but arbitrary and violative of Article 14 of Constitution because it has no basis particularly when from the RTI papers filed by workmen side Ex. W/17 to Ex. W/38 show that the Circular of Coal India has been uniformly and fully implemented in all cadres including Excavation Cadre in all other subsidiaries of Coal India like NCL, WCL, CCL etc.

Issue No.-3 is answered accordingly.

#### Issue No.-4 :-

On the basis of findings recorded above, the action of management of Sohagpur Area of SECL in not granting benefits of I.I.-32 to the workmen who happen to be the Dumper Operators of Dhanpuri OCM under the cover of Circular no.- 990 dated 30/31.12.2002 is held arbitrary and illegal.

Issue no.-4 is answered accordingly.

#### Issue No.-5 :-

In the light of above findings, this issue is answered against the Management.

In the light of above discussion and findings, following Award is passed -

#### AWARD

**The action of General Manager Sohagpur area in not granting the benefits of Implementation Instructions 32 to the workmen in the aforesaid references is illegal and unjustified. They are held entitled to the benefits according to I.I.-32 admissible to them at par with their counter parts working in E & M Cadre. The management is directed to complete the whole exercise pay the arrears if any within 30 days from the date of publication of Award in Official Gazette, failing which interest @ of 8% per annum from the date of Award till payment. No order as to cost.**

DATE: 30/04/2024

P.K.SRIVASTAVA, Presiding Officer

नई दिल्ली, 11 जून, 2024

**का.आ. 1134.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पटना के पंचाट **Award ( Complaint Case No 02 C of 2018 (Ref. Case No. 04 (C) of 2017)** प्रकाशित करती है।

[सं. एल-12025/01/2024- IR(B-I)-161]

सलोनी, उप निदेशक

New Delhi, the 11th June, 2024

**S.O. 1134.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award ( Complaint Case No. 02 C of 2018 (Ref. Case No. 04 (C ) of 2017) of the *Indus.Tribunal-cum-Labour Court Patna* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2024- IR(B-I)-161]

SALONI, Dy. Director

#### ANNEXURE

Before The Presiding Officer,

Industrial Tribunal, Patna.

**Complaint Case No.- 02(C) of 2018**

**Reference Case No.:- 04 (C) of 2017**

The workman of Sri Jawahar Kumar, S/O- Sri Bhubaneshwar Prasad, Vill.-Harprasad Bigha, P.O- Gaurav Nagar, P.S- Parwalpur, Dist.-Nalanda ( Complainant ) Versus Sri Akhilesh Kumar Mishra, the Regional Manager, State Bank of India, Regional Office, Hariji Ka Hata, Arrah-802301 Dist.- Bhojpur (Opposite party)



For the management:- Sri Rashmi Rathi Sharma, Manager, Law, SBI.  
Smt. Bhargavi Jha, Manager.  
Smt. Richa Priyambada, Law Officer.

For the workman:- Sri B. Prasad, President, Bank Employees Federation, Bihar.

Present:- **Manoj Shankar**  
**Presiding Officer,**  
**Industrial Tribunal, Patna.**

### **ORDER**

**Patna, dt- 5<sup>th</sup> April, 2024.**

1. This complaint case is filed by the workman Jawahar Kumar against the management bank u/s-33 (A) of the Industrial Dispute Act, 1947 arising out of Reference Case No.- 04(C) of 2017.

2. The case of the workman vide this complaint petition is that workman Jawahar Kumar was a temporary messenger at Buxar Branch of SBI previously called State Bank of Bikaner & Jaipur. The workman was working from at Buxar Branch from 16.08.2013. It is further alleged that complainant ( workman ) had caused an Industrial Dispute before the Regional Labour Commissioner on 29.03.2016 which culminated in reference before this Industrial Tribunal, Patna i.e registered as Reference Case No.- 04 (C) of 2017. It is further alleged that after receiving the notice from the Regional Labour Commissioner (C) as well as Industrial Tribunal the opposite party instructed the then Branch Manager of Buxar Branch to terminate the services of the complainant / workman from 08.12.2017. It is further alleged that as per the instruction of the opposite party the complainant ( workman Jawahar Kumar ) was terminated from the service of the bank i.e violation of section-33 of the I.D.Act. It is further asserted that complainant represented the opposite party on 27.12.2017 for reinstatement in service but no positive action was taken by the opposite party. It is further asserted that opposite party is liable to be prosecuted and punishment as per section 31 of the I.D.Act for the violation of section-33. Thus the complainant seeks prayer to decide his complaint and passed the order as deem fit and proper. The complainant also petition enclosed with the copy of the notification of the Reference Case No.- 04(C) of 2017, copy of the notice dt- 08.11.2017 issued by this tribunal to the both parties and copy of the representation petition dt- 27.12.2017 sent to the Regional Manager, SBI.

3. On the other hand the opposite party / management bank filed reply to the complaint petition and mentioned therein the present complaint filed by the complainant u/s-33 of the Industrial Dispute Act, 1947 is only to create a pressure upon the opposite party / management bank for illegal gain, hence the same is fit to be dismissed. It is further asserted that complainant had raise the Industrial Dispute before the Regional Labour Commissioner on 29.03.2016 and after failure of the conciliation the Central Government referred this dispute to this tribunal vide Order No.- L-12012/110/2016-IR (B-I) dt- 26.10.2017 and in that reference case the opposite party / management bank appeared after receiving the notice and filed reply / written statement accordingly. The allegation of the complainant is far away from the truth. The fact is complainant was neither an employee of the bank nor appointed by the bank in any manner so therefore, no question of termination of the service arises at all. It is further asserted that complainant never worked as a temporary messenger at Buxar Branch from 16.08.2013 rather complainant was engaged intermittently without any continuity of service depending on requirement by the bank, some time for part of the day and some time for full day. It is further asserted that the claim of the complainant as per instruction of the Regional Office the Branch Manager of the Buxar Branch terminated the service of the complainant from 08.12.2017 is totally wrong because complainant was engaged orally on requirement basis and job of the complainant was casual in nature. So the termination of services from 08.12.2017 does not arises. It is further asserted that complainant has not made out any prime-facie case of violation of any provision of law and bank has also not violated any provision of the I.D.Act. It is further asserted that complainant Jawahar Kumar was never appointed in any manner in the bank as he was engaged orally on requirement basis by the branch and worked occasionally in the job of the casual nature and other work from time to time in the said branch and he was paid accordingly. So the conditions of termination of service are no way applicable to him to attract the provisions of section-31 and section-33 of the I.D.Act. So it is prayed to dismiss the complaint petition.

4. In the light of his complaint petition the workman Jawahar Kumar produced himself as a witness and he deposed before this tribunal on 27.06.2022. He stated before this tribunal, he was retrenched from discharging the duty at Buxar Branch of management bank from 08.12.2017 at that time his reference case no.-04(C) of 2017 is pending in this tribunal. This witness also stated that bank management neither gave any notice, nor any notice pay and not even any compensation to him before termination.

In cross-examination this witness categorically stated in para-6 is that he has filed this complaint case against the then Branch Manager of Buxar Branch. This witness also admits no appointment letter was given to him and no letter was given before this termination. This witness also admits in the same para that he has filed all the relevant documents in the Reference Case No.- 04(C) of 2017. In para-8 of the cross-examination this witness categorically stated that one Santosh Kumar Jha the Officer of Regional Office took him to the Buxar Branch for the work were he never made his attendance and bank had not given him Identity Card. This tribunal finds that the

management bank did not controvert the evidence of complainant Jawahar Kumar as stated in examination-in-chief regarding his termination of service from 08.12.2017 while the Reference Case No.-04(C) of 2017 was pending in this tribunal and also did not denied about any kind of notice or notice pay rather management has cross-examined the witness otherwise i.e not concerned this complaint case.

5. The workman / complainant also marked his representation petition of dt- 27.12.2017 for the reinstatement of his service in the bank marked as Ext.-1 with due admission of the management bank. This letter is addressed to the Regional Manager, SBI Arrah by workman Jawahar Kumar disclosing this facts he was working as a temporary messenger at the Buxar Branch from 16.08.2013 and before that he work at Regional Office, Patna of SBBJ and he worked at Buxar upto 08.12.2017 but he has been stopped from working. This Ext.1 is duly admitted by the management bank.

6. On the other hand, management also examined one witness Akhil Kumar Mishra the DGM of SBI Any Time Chainal Corporate Centra, Mumbai who stated before this tribunal that he was Regional Manager at Regional Office of SBBJ, Arrah from September 2017 to May-2019 and there were 50 branches attached to the Regional Office. This witness also stated that a instruction was given to all the branches to take the cleaning work for approved agency only. This witness also stated that during his tenure at Regional Office, Arrah no branch has given any information about any temporary sweeper or messenger. This witness further stated that this is totally false to say instruction was passed to the Buxar Branch to terminate the Jawahar Kumar from 08.12.2017.

In cross-examination this witness categorically stated in para-9 is that as per the complaint the matter related to regularisation. As per complaint the issue of Jawahar Kumar was related to SBBJ but he does not know whether he was discharging work there. In para-11 of the cross-examination this witness categorically admits that Mr. S.K. Prasad was the Branch Manager of Buxar Branch of SBBJ in the year-2017 and in para-12 this witness categorically stated that he can't say Jawahar Kumar was engaged in SBBJ Buxar Branch from the year-2013. In para-13 of the cross-examination this witness stated that as for his memory Buxar Branch of SBBJ was taking the work from out sourcing and he also denied in para-14 that the workman has given any representation to Regional Manager in the year 2017 and it is also not fact he has given any instruction for the Jawahar Kumar. The evidence of this witness shows that he was posted at Regional Office from September 2017 to May 2019 and this witness also stated that he can't say about Jawahar Kumar working at SBBJ Buxar Branch from 2013. This witness also admits that the case of the complainant is about regularisation. Moreover, this witness also stated that he does not know the complainant Jawahar Kumar. So the evidence of the management does not de-establish the claim of the complainant regarding his termination from work at Buxar Branch from 08.12.2017. No authentic evidence is brought by the management bank so far as the complainant is concerned.

7. Considering all the facts and materials on the record as discussed above, this tribunal finds that Reference Case No.-04(C) of 2017 was pending in this tribunal from 07.11.2017 and the notice was issued to both the parties on 08.11.2017. The claim of the complainant ( workman ) in Reference Case No.- 04(C) of 2017 was for his regularisation his service in the management bank has he was discharging the duties of a temporary worker messenger and the cleaning work from August 2013 at Buxar Branch continuously and when the notice was received of this reference case, the management bank terminated the services of working from 08.12.2017 and that's why this complaint case is filed by the workman u/s-33(A) of the I.D.Act.eSection-33(A) deals **[ Condition of service, etc to remain unchanged under certain circumstances during pendency of proceedings.—(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before 66[ an arbitrator or ] a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, noemployer shall—**

- (a) **In regard to any matter connected with the dispute, alter to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or**
- (b) **for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute,**  
**save with the express permission in writing of the authority before which the proceeding is pending.**

Taking the crux of this provision of 33 (A) of the I.D.Act the dispute of the workman was pending in this tribunal to adjudicate about not to regularise the service of workman by management bank as peon / messenger is justified, and in the mean time workman was stopped from discharging duties at Buxar Branch from 08.12.2017 without seeking any permission by the management bank from this tribunal certainly a violation of section 33 (A) of the I.D.Act.i.e thoroughly established by the complainant (workman ) by way of oral and documentary evidence (Ext.-1 ). Moreover, management bank has been totally failed to controvert the claim of the workman regarding his termination from his job from 08.12.2017 without any notice or notice pay.

8. On the ultimate analysis all the facts and the materials available on the record as discussed above and submissions as advanced by both the sides, this tribunal finds and hold that Jawahar Kumar has raised the dispute for not to regularise his service by the management bank, accordingly Reference is sent by the appropriate Govt. to this tribunal with reference order no.- L-12012/110/2016-IR(B-I) New Delhi, dated- 26.10.2017 i.e. **Whether the action of the management of State Bank of Bikaner & Jaipur in not regularizing the services of Sri Jawahar Kumar Peon / Messenger, Buxar Branch is justified? If not, to what relief the workman concerned is entitled to?** This tribunal further finds and hold that the case is pending in this tribunal to adjudicate the above issue in the mean time workman / complainant was stopped from doing duty in the Buxar Branch of SBI from 08.12.2017 i.e. thoroughly established by the complainant before this tribunal, accordingly this is the considered opinion of the tribunal the complaint as filed by the workman Jawahar Kumar U/S-33(A) of the I.D.Act is correct. This order is the part of the award passed in Reference Case No.- 04(C) of 2017. This order is effected after date of publication in gazette.

This is my order accordingly.

MANOJ SHANKAR, Presiding Officer

नई दिल्ली, 11 जून, 2024

**का.आ. 1135.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (25/2012) प्रकाशित करती है।

[सं. एल - 12011/33/2011- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 11th June, 2024

**S.O. 1135.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.25/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen.

[No. L-12011/33/2011- IR (B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/25/2012**

Present: P.K.Srivastava

H.J.S..(Retd)

General Secretary

Dainik Vetan Bhogi Bank Karmchari Sangathan

F-1, Karmabhoomi, Tripti Vihar, Opposite

Engg. College, Ujjain (MP)

Workman

Versus

Asst. General Manager

UCO Bank, Head Office, 10

Old Court Street, Kolkata

Management

## (JUDGEMENT)

(Passed on this 1<sup>st</sup> day of April 2024)

Vide letter no.-L-12011/33/2011/IR(B-II), dated 18.01.2012, the Government of India, through Ministry of Labour and Employment, has sent following reference for adjudication.

## SCHEDULE

***“Whether Shri Ram Singh Ahirwar is workman under the Provision of I.D. Act 1947 ? If yes, whether Ram Singh Ahirwar is eligible for payment of bonus for the period from 09.11.1988 to 21.08.1996 ? What relief the workman is entitled to ?”***

After registering a case on the basis of the reference, notices were sent to the parties. They appeared and file their respective Statements of Claim and Defense.

According to the Union, the workman Ram Singh Ahirwar was first employed by management of UCO Bank, Regional Office, Bhopal on 09.11.1988 and worked till 28.02.1990 on daily wage @ of Rs. 20/- per day which was increased to Rs. 25/- per day. He further worked in Habibganj Branch of the Bank in Bhopal from 01.03.1990 on daily wage @ of Rs. 35/- per day which was increased to Rs. 40/- and Rs. 45/- per day. He also worked in the Arera Colony, Branch of the Bank in Bhopal from 22.08.1996 to 09.05.1997 on a daily wage @ of Rs. 55/- per day. Bank paid him bonus for the period of 01.04.1996 to 31.03.1997 and 01.04.1997 to 09.05.1997 but did not pay bonus for the period of 09.11.1988 to 28.02.1990 and for 01.03.1990 to 21.08.1996, though other daily wagers like Harinarayan in Vichchod Branch and Dilip Kumar in Bhinoda Branch both in Distt.- Ujjain were paid bonus for this period also. This action of the management bank in denying bonus to the workman is against law. Accordingly the workman has prayed that holding him entitled to get bonus for the period from 09.11.1988 to 28.02.1990 and from 01.03.1990 to 21.08.1996, management be directed to pay him bonus accordingly.

According to management, the workman was a daily wage labour, engaged by the Bank on daily rate basis to meet the exigencies of work from time to time. He was never engaged against any vacancy or a sanctioned post following recruitment procedure, hence he is not a workman U/s. 2(s) of Industrial Disputes Act 1947, hereinafter referred to by the word ‘Act’, hence not eligible for bonus for the period claimed by him. Management further stated that the workman never worked continuously for 240 days in any year. Management has also disputed the right of the Union to contest this case.

In evidence, workman filed his affidavit as his examination in chief. He has been cross examined by management the workman has further filed and proved photocopy documents Ex. W/1 to Ex. W/9, to be referred to as and when required.

Management has not produced any oral or documentary evidence. No oral arguments submitted by any of the parties, workman side has filed memorandum of arguments which is on record. Management has not filed any written arguments.

On perusal of record in the light of rival arguments, the reference itself is the issue for determination.

Pleadings of the parties have already been detailed earlier. Before proceedings into the merits of claim and counter claim, Section 2(j) & 2(s) of the Act are being reproduced as follows –

**2(j) “industry” means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;**

**2(s) “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—**

- (i) ***who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or***
- (ii) ***who is employed in the police service or as an officer or other employee of a prison; or***
- (iii) ***who is employed mainly in a managerial or administrative capacity; or***
- (iv) ***who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.***

Section 8 of Payment of Bonus Act is also being reproduced as follows –

**“Eligibility for bonus.—Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.”**

In his statement on oath, the workman has corroborated his case that he worked as a daily wager with the Bank in its different branches from 09.11.1988 to 21.08.1996 and also from 01.04.1996 to 09.05.1997. He further states that he was paid bonus by the bank for the period from 01.04.1996 to 09.05.1997. Case of management, has taken by them in their written statement is that since he was a daily wager, he was not a workman and hence not entitled to bonus. Management has nowhere denied the case of the workman, in their pleadings or evidence (no evidence by management) nor they have stated that the workman was not paid any bonus for any period as claimed by him. Hence, the stand of management that the workman, being a daily wager, was not entitled to bonus falls flat. Now, the question remains to be decided as to whether the workman has successfully proved his engagement as daily wager from 09.11.1988 to 21.08.1996 in different branches of the Bank as stated by him. His statement on oath corroborates his case and there is nothing in his cross examination to discredit him on this point. Since, his this allegation has not been specifically denied by management in their pleadings, it shall be deemed to be admitted by management. More over, management has not rebutted this claim of the workman by any evidence.

Hence, holding the claim of the workman that he worked as daily wager with the Bank in its different branches within the period from 09.11.1988 to 21.08.1996 proved, he is held entitled to bonus for this period based on number of days he worked with the Bank during this period.

In the light of the above discussion, following award is passed.

#### AWARD

**Holding the claim of the workman that he worked as daily wager with the Bank in its different branches within the period from 09.11.1988 to 21.08.1996 proved, he is held entitled to bonus for this period based on number of days he worked with the Bank during this period. No order as to cost.**

DATE:- 01/04/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 11 जून, 2024

**का.आ. 1136.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (10/2019) प्रकाशित करती है।

[सं. एल-12011/26/2018- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 11th June, 2024

**S.O. 1136.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.10/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/26/2018- IR (B-I)]

SALONI, Dy. Director

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/10/2019**

Present: P.K.Srivastava

H.J.S..( Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari Sangathan, F-1,

Tripti Vihar, Opp. Engg. College,

Ujjain (M.P.) - 456010

Workman

Versus

The Chief General Manager,  
State Bank of India,  
Hosangabad Road,  
Bhopal (M.P.) - 462004

Management

**AWARD****(Passed on this 07<sup>th</sup> day of May-2024.)**

As per letter dated 18/12/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/26/2018 (IR(B-I)) dt. 18/12/2018. The dispute under reference related to :-

**“ Whether the following allegations made by the union, Dainik Vetan Bhogi Karmachari Sangathan, against the management of State Bank of India, Bhopal, in the matter of Shri Pradeep Dhangar, are amount to unfair labour practice under I.D Act. ?**

- a.) Not giving appointment letter and not giving termination lettet.
- b.) Payment was not made as per pay scale/skill wage.
- c.) Minimum Wages not paid.
- d.) Muster Roll has not been maintained as per Section 25-D of ID Act
- e.) After working for 06 days, the Wages for weekly off and National Holidays 26<sup>th</sup> January, 15<sup>th</sup> Aug were deducted.

**If yes, what relief the workman is entitled to? ”**

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the Workman to submit his statement of claim. In spite of the allotment of time and service of notice, the Workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the Workman. Since the Workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of the Workman not proved, the reference deserves to be answered against the Workman and is answered accordingly.

**AWARD**

**In the light of this factual backdrop, holding that the claim of the Workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.**

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 07/05/2024

नई दिल्ली, 11 जून, 2024

**का.आ. 1137.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्यांचल ग्रामीण बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (05/2022) प्रकाशित करती है।

[सं. एल - 12025/01/2024- आई आर (बी-I)-162]

सलोनी, उप निदेशक

New Delhi, the 11th June, 2024

**S.O. 1137.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.05/2022) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*

Jabalpur as shown in the Annexure, in the industrial dispute between the management of Madhyanchal Gramin Bank and their workmen.

[No. L-12025/01/2024- IR (B-I)-162]

SALONI, Dy. Director

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/A/05/2022**

Present: P.K.Srivastava

H.J.S..(Retd)

Ram Milan Kushwaha

S/o. Shri Lolar Prasad Kushwaha

R/o. Village and Post Karthua, Tehsil Chitrangi,

District Singrauli M.P.

Workman

Versus

Madhyanchal Gramin Bank

Through its Chairman, Head Office Poddar

Colony, In front of Mahila Polytechnic College

Hostal, Sagar (M.P.)

General Manager

Madhyanchal Gramin Bank

Regional Office In front of Mahila Polytechnic

College Hostal, Sagar (M.P.)

Regional Manager

Food Corporation of India,

Madhyanchal Gramin Bank, Regional Office,

Collectorate Road ,Munni Bai Colony,

Sidhi (M.P.)

Branch Manager

Madhyanchal Gramin Bank

Branch Karthua, Distt.- Singrauli (M.P.)

Management

**(JUDGEMENT)**

**(Passed on this 30<sup>th</sup> day of April 2024)**

The workman has filed this petition U/S. 33-A of the Industrial Disputes Act 1947 (in short the 'Act') seeking declaration of oral termination of his services on 02.08.2022 as illegal and in violation of Section 33-A of the Act.

The case of the applicant workman, in brief is that he was working as a daily wager in the management bank since 22.08.1997. His services were illegally terminated by bank w.e.f. 22.08.2000. He raised an Industrial Dispute in this respect a reference was received to this Tribunal which was registered as R/23/2003 and final Award was passed on 11.10.2012. The illegal termination was set aside by the Tribunal and applicant was directed to be reinstated with all back wages and benefits. Management preferred W.P. No.- 3255/2013 before Hon'ble High Court



of M.P. The back wages was stayed by Hon'ble High Court Single Bench subject to the condition of reinstatement of the applicant by bank. His services were reinstated in compliance of the direction of Hon'ble High Court in the aforesaid writ but were illegally discontinued during the pendency of the writ proceedings which is violation of Section 33-A of the Act.

Management has opposed this application stating that writ is not continuation of proceeding, hence claim is not covered U/S. 33-A of the Act.

After hearing, the case was fixed for final order. Before final order, learned Counsel for applicant workman filed an application with affidavit of the applicant stating that since he has now been engaged by the bank, the dispute as ceased to exist at present and has sought permission to withdraw the petition with liberty that if the cause of action survives he may again file petition.

After hearing of applicant learned Counsel and perusal of record, it comes out that the application may be allowed and prayer may be granted. Accordingly, application for withdrawal is allowed as prayed. No order as to cost.

DATE:- 30/04/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 11 जून, 2024

**का.आ. 1138.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (04/2019) प्रकाशित करती है।

[सं. एल-12011/17/2018- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 11 June, 2024

**S.O. 1138.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.04/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/17/2018- IR (B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/04/2019**

Present: P.K.Srivastava

H.J.S. ( Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari Sangathan,

F-1, Tripti Vihar, Opp. Engg. College,

Ujjain (M.P.) - 456010

Workman

Versus

The Chief General Manager,

State Bank of India, Hosangabad Road,

Bhopal (M.P.) - 462004

Management

**AWARD****(Passed on this 29<sup>nd</sup> day of April-2024.)**

As per letter dated 18/12/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/17/2018 (IR(B-I)) dt. 18/12/2018. The dispute under reference related to :-

**“ Whether the following allegations made by the union, Dainik Vetan Bhogi Bank Karmachari Sangathan, against the management of State Bank of India, Bhopal, in the matter of Shri Devendra Goud, are amounts to unfair labour practice under I.D Act?**

- a. Not giving appointment letter and not giving termination letter.
- b. Payment was not made as per pay scale/skill wage.
- c. Minimum Wages not paid.
- d. Muster Roll has not been maintained as per Section 25-D of ID Act.
- e. Applicants have worked 240 days in a year.
- f. After working for 06 days, the Wages for weekly off and National Holiday 26<sup>th</sup> January, 15<sup>th</sup> Aug were deducted.

**If yes, what relief the workman is entitled to?”**

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of the allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.

**AWARD**

**In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.**

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 29/04/2024

नई दिल्ली, 11 जून, 2024

**का.आ. 1139.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (31/2014) प्रकाशित करती है।

[सं. एल - 12012/103/2013- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 11th June, 2024

**S.O. 1139.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.31/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/103/2013- IR (B-I)]

SALONI, Dy. Director

## ANNEXURE

## THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/31/2014

Present: P.K.Srivastava

H.J.S..( Retd)

Shri Ravi Kumar Rajput

S/o. Chandu Singh Rajput

H.No. 995, Imalipura, Near Gurudwara

Gorakhpur, Jabalpur (MP)

Workman

Versus

The Chief General Manager

State Bank of India, L.H.O. Hoshangabad

Road, Bhopal (M.P.)

The Branch Manager

State Bank of India, Rampur Branch

District Jabalpur (M.P.)

Management

## A W A R D

(Passed on this 21<sup>st</sup> day of May-2024.)

As per letter dated 22/04/2014 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12012/103/2013 IR(B-II) dt. 22/04/2014. The dispute under reference related to :-

**^^Whether the action of the management of Branch Manager, State Bank of India, Rampur Branch, Jabalpur/Chief General Manager, State Bank of India, Local Head Office, Bhopal (M.P.) in discontinuing the services of Shri Ravi Kumar Rajput S/o. Shri Chandu Singh Rajput, Ex-Peon w.e.f. 31.08.2010 and not absorbing him into State Bank of India from State Bank of Indore pursuant to merger of State Bank of Indore into State Bank of India is just valid and reasonable ? If not, what relief the workman is entitled to and from which date ?\*\***

After registering the case on reference received, Notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

According to the workman, he was appointed by the management on 28.03.2004 as a peon and worked continuously till 31.08.2010 when his services were terminated without any notice or compensation. During his service tenure he was required to discharge all the duties of the peon and also other manual works performed by a Class-IV Employee. The work was of a permanent nature though he was appointed on daily wage basis. He raised a dispute against his illegal termination which was in violation of Section 25-G and 25-H of the Act. After failure of conciliation, the reference was sent to this Tribunal. The workman has thus prayed that he be held entitled to be reinstated with all back wages and benefits setting aside his disengagement.

In its written statement of defense, the bank has denied the engagement of workman in any capacity and had pleaded that there are certain recruitment procedure for recruitment of employees including peons. According to the management the workman was never appointed against any regular post following recruitment procedure. In fact he was purely engaged as a casual labour subject to availability of work. He never worked continuously for 240 days in an year, hence his disengagement is not in violation of the Act. Accordingly, the bank has requested that the reference be answered against the workman.

The workman has filed his affidavit as his examination in chief on which he has been cross examined by management. He has filed and proved photocopy documents which are Ex. W/1 & W/2 list of daily wage payment to the workman from 31.08.2009 to 28.08.2010, Ex. W/3 details of bonus payment from 04.01.2005 to 28.08.2010. Management has also filed affidavit of its witness who has been cross examined from the side of workman.

I have heard argument of Mr. K.B. Singh learned Counsel for workman and Mr. Praveen Yadav learned Counsel for Management Bank. I have gone through the record as well.

From perusal of record in the light of rival arguments, following issues arise for determination.

1. *Whether the workman has successfully proved his continuous engagement by bank for 240 days and more within an year ?*
2. *Whether, the disengagement of the workman is in violation of Section 25-G, 25-F and 25-N of the Act ?*
3. *Whether the workman is entitled to any relief ?*

**Issue No.-1 & 2 :-**

Since, both the issues are inter connected, they are being taken together. Pleadings of the parties on these issues have been detailed earlier. The workman has corroborated his case on these issues in his affidavit as his examination in chief. In his cross examination, he has stated that he was not issued an appointment letter. He further states that he did not appear in any written examination and interview for the post, no advertisement was released, his name was not sponsored by employment exchange and that was engaged by the Branch Manager. The document regarding payment of bonus to the workman for the period 2005 to 2010 Ex. W/3 goes to show that he was paid bonus for more than 240 days work in every year. This is further supported by Ex. W/1 & W/2 which is statement regarding days the workman worked in the year preceding the date of his termination which shows that he worked for more than 240 days.

On the other hand, the management witness has stated in his cross examination that the workman was a daily wager casual staff. This witness does not know whether approval for the termination of the workman was taken or any notice or compensation was given to him on his termination. This witness has referred to the merger document Clause-7 & 8 which provides that only the services of permanent employees and employees on probation would be transferred to the transferee bank and not of daily wagers.

The above description of statements and documents are held sufficient to prove the engagement of the workman for 240 days in any year. Hence, his disengagement is held in violation of the Act because there is no evidence that the workman was paid any notice wage or compensation on his termination. Hence, holding the continuous engagement of the workman for 240 days proved, issue no.-1 & 2 are answered accordingly.

**Issue No.- 3 :-**

Since, the workman was not appointed against any regular vacancy following recruitment process, he was only a daily wage worker and also the services of only permanent employees as well employees on probation were transferred to the transferee bank i.e. State Bank of India from the transferor bank i.e. State Bank of Indore as per Clause-7 & 8 of Merger Agreement, reinstatement of the workman is not a legally tenable relief to be granted to him. Keeping in view all the facts and circumstances of the case in hand, a lump sum compensation of Rs. 1,00,000/- (One Lac only) in lieu of all his claims will meet the ends of justice to which the workman is held entitled. Issue no.-3 is answered accordingly.

In the light of above observations and findings, the reference deserves to be answered as follows.

**AWARD**

***The action of management of Branch Manager, State Bank of India, Rampur Branch, Jabalpur/ Chief General Manager, State Bank of India, Local Head Office, Bhopal (M.P.) in discontinuing the services of Shri Ravi Kumar Rajput S/o. Shri Chandu Singh Rajput, Ex. Peon w.e.f. 31.08.2010 is held unjust and against law.***

***Not absorbing the workman into State Bank of India from State Bank of Indore pursuant to merger of State Bank of Indore into State Bank of India is held just valid and reasonable.***

***The workman is held entitled to a lump sum compensation of Rs. 1,00,000/- (One Lac only) from management Bank in lieu of all his claims to be paid to him within 30 days from the date of publication of Award, failing which interest @ of 8% per annum from the date of Award, till payment.***

**DATE: 21/05/2024**

**P. K. SRIVASTAVA, Presiding Officer**

नई दिल्ली, 11 जून, 2024

**का.आ. 1140.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदोर के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (10/2001) प्रकाशित करती है।

[सं. एल - 12012/333/2000- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 11th June, 2024

**S.O. 1140.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 19/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore and their workmen.

[No. L-12012/333/2000- IR (B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/19/2001

Present: P.K.Srivastava

H.J.S..( Retd)

Shri P.N. Sharma, Chairman

All India State Bank of Indore

Employees Co-ordination Committee

138, Shakti Nagar, Jabalpur (MP)-482001

Workman

Versus

The General Manager (Operations)

State Bank of Indore, Head Office, 5

Yeshwant Niwas Road, Indore (MP)

Management

#### A W A R D

(Passed on this 13<sup>th</sup> day of May-2024.)

As per letter dated 29/12/2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-12012/333/2000/IR(B-I) dt. 29/12/2000. The dispute under reference related to :-

***“Whether the action of the management of State Bank of Indore, Regional Office, Jabalpur in terminating the services of Shri Satish Kumar Garewal w.e.f. 14-7-99 is justified ? If not what relief he is entitled ?***

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

**The case of the workman** in short is that the workman Shri Satish Kumar Garewal was appointed as Part time Peon in Narsinghpur branch of the Bank in June 1994. He worked continuously till 13.07.1999. Thereafter he was terminated without notice or wages in lieu of one month notice and without payment of retrenchment compensation, in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He had worked more than 240 days as required under Section 25-B of the Act, 1947. He was getting Rs. 60/- per day as wages. It is submitted that the workman be reinstated with full back wages.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked

as a casual worker for supply of water for few hours in a day as and when required in Narsinghpur branch of the Bank and was paid as agreed by him. The provision of the Section 25-F of the Act. 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. It is submitted that his claim be rejected.

On the basis of the pleadings of the parties, the following issues were framed for adjudication by my learned Predecessor:-

- 1) Whether the action of the management in terminating the services of Shri Satish Kumar Garewal w.e.f. 14.07.1999 is justified ?
- 2) To what relief he is entitled ?

Issue No.-1 was decided against the workman by my learned Predecessor on the basis of evidence recording a finding that the relationship of the workman with the management that he was a workman and the Bank was the employer as well the fact that the workman worked continuously for 240 days in a year was not proved. On the basis of finding on issue no.-1, the workman was held entitled to no relief.

The workman filed W.P. No.- 193/2013 before Hon'ble High Court of M.P. at Jabalpur which was decided Single Bench vide order dated 15.06.2023. Hon'ble High Court observed that with regards to the claim of the workman that he worked for more than 240 days in a calendar year which was disputed by management, there were documents pertaining to bonus paid to the workman by the management which figured in the communication of Assistant Labour Commissioner dated 07.10.1999, when the dispute was raised by the workman. The communication by the Bank dated 25.11.1999 and 05.05.2000 which contained in the Annexure P/5 to the writ petition, showed that the Bank informed the Assistant Labour Commissioner that as soon as the bonus register was received, the information regarding payment of bonus to the workman will be produced before the Assistant Labour Commissioner. The workman had filed a photocopy of this bonus payment before this Tribunal as well before Hon'ble High Court as Annexure P/15 but this document was not entertained by this Tribunal as it was photocopy of original, not admissible in evidence. The Hon'ble High Court further observed that the original was with the Bank, who was required to supply it to the Assistant Labour Commissioner and this Tribunal also, when it did not dispute this document. Hon'ble High Court remanded the matter back to decide it a fresh while extending opportunity of hearing as well opportunity to adduce evidence to both the parties.

Parties were given opportunity to file evidence. Argument of learned Counsel from the both the sides were heard by me and the record was also perused.

In view of direction of Hon'ble High Court, the workman filed RTI original documents which go to show that in the year 1996-97 the workman was paid bonus for working 25 days per month. This document further shows that he was paid bonus in the year 1997-98 shown working for 25 days per month. Further he was paid bonus for the year 1998-99 which was Rs. 1324/-. The number of days he worked is not mentioned but it is mentioned that he was paid @ of Rs. 55/- per day and the total payment of wages paid during the year was 15895/-. On this basis, it comes out that he worked for 289 days in the year 1998-99 as a daily wager. This document conclusively proves the fact that **firstly**, the workman was engaged by the management Bank and **secondly**, he worked for more than 240 days in the year preceding the date of his disengagement which is 14.07.1999. Since, there is nothing on record that the workman was given any notice or retrenchment compensation as required in 25-F of Industrial Disputes Act 1947, hence, his disengagement is held against law.

Since, the workman was not appointed against any sanctioned post by following recruitment process and also the fact that he died during the proceedings and being represented by his legal representatives, his reinstatement is not a proper relief. In my considered view, a lump sum compensation of Rs. 2,00,000/- lacs in lieu of all the claims will meet the ends of justice.

In the light of above findings, following Award is passed.

#### AWARD

**Holding the action of management State Bank of Indore, Regional Office Jabalpur in terminating the services of deceased Satish Kumar Garewal w.e.f. 14.07.1999 unjustified in law, his legal representatives are held entitled to a lump sum compensation of Rs. 2,00,000/- lacs payable to them within 30 days from the date of publication of Award in official Gazette, failing which interest @ of 8% from the date of Award till payment.**

**DATE: 13/05/2024**

P. K. SRIVASTAVA, Presiding Officer

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

नई दिल्ली, 11 जून, 2024

**का.आ. 1141.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (55/2019) प्रकाशित करती है।

[सं. एल-12012/13/2019- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 11th June, 2024

**S.O. 1141.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.55/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12012/13/2019- IR (B-II)]

SALONI, Dy. Director

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,  
JABALPUR

NO. CGIT/LC/R/55/2019

Present: P.K.Srivastava

H.J.S..( Retd)

Shri Ashish Chouria,  
Parasia Road, Opp. Krishna Tower,  
Adarsh Nagar, Near Shiv Mandir,  
Chhindwara (M.P.)

Workman

Versus

The Branch Manager,  
Punjab National Bank,  
Nepiur Town, 1227,  
Jabalpur (M.P.)

Management

## A W A R D

(Passed on this 16<sup>th</sup> day of May-2024.)

As per letter dated 09/05/2019 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12012/13/2019 (IR(B-II)) dt. 09/05/2019. The dispute under reference related to :-

**“क्या, आवेदक श्री आशीष चौरिया दिनांक 20/9/11 से दिनांक 19/5/2014 तक पंजाब नेशनल बैंक की शाखा परासिया जिला छिदवाडा में बतौर दैनिक वेतन भोगी कर्मचारी नियोजित थे, यदि हां तो क्या शाखा प्रबंधक द्वारा आवेदक श्री आशीष चौरिया को बिना किसी पूर्व सूचना/कारण के दिनांक 19/5/2014 से सेवा से हटाना न्यायसंगत है? यदि नहीं तो आवेदक क्या अनुतोष पाने का अधिकारी है?”**

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of the allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management filed its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.



**AWARD**

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 16/05/2024

नई दिल्ली, 11 जून, 2024

**का.आ. 1142.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (147/2017) प्रकाशित करती है।

[सं. एल-12012/78/2017- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 11th June, 2024

**S.O. 1142.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.147/2017) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen.

[No. L-12012/78/2017- IR (B-II)]

SALONI, Dy. Director

**ANNEXURE****THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR**

**NO. CGIT/LC/R/147/2017**

Present: P.K.Srivastava

H.J.S..( Retd)

Shri Radhakant Yadav

S/o. Shri Gupteshwar Yadav

H.No. 2204/8, Nirmal Chand Jain

Ward, New Kanchanpur, Adhartal

Jabalpur (MP)

Workman

Versus

The Branch Manager

UCO Bank,

Vehicle Factory Branch

Jabalpur (M.P.)

Management

**A W A R D**

**(Passed on this 14<sup>th</sup> day of May -2024.)**

As per letter dated 13/11/2017 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12012/78/2017 IR(B-II) dt. 13/11/2017. The dispute under reference related to :-

“क्या शाखा प्रबंधक, युको बैंक व्हीकल फैक्ट्री शाखा, जबलपुर म.प्र. के प्रबंधन द्वारा श्री राधाकांत यादव आत्मज गुप्तेश्वर यादव, भू.पू. केजुअल लेबर/चपरासी को सन् 2007 से दिसंबर 2015 तक कार्य में रखने के बावजूद नियमित न करते हुए उसकी सेवाएं समाप्त किये जाने की कार्यवाही न्यायोचित है ? यदि नहीं, तो कर्मचारी किस अनुतोष का हकदार है ?”

After registering the case on reference received, Notices were sent to the parties and were duly served on them. The workman appeared and filed his statement of claim. The management also appeared on 21.08.2018 through its Counsel Shri Anoop Dubey who filed Vakalatanama for management. Thereafter, management absented itself, hence the reference proceeded ex-parte against management vide order dated 17.07.2019.

**According to the workman**, he was appointed by the Branch Manager in January 2007 on the post of Casual Labour/Peon paying wages on daily rate and continuously till December 2015 thus worked more than 240 days in continuous service of the Bank in every year. His salary was credited in his bank account by the management. He was also paid bonus for this period. Being in continuous service of the Bank, he had acquired permanent status. He was terminated by management without notice or compensation in violation of Section 25-F of the Act. Since then, he is out of job. It is further his case that one Prakash Thakur was employed by the Bank in his place after his termination who still continues in service of the Bank. Thus, according to the workman this action of management is unjust, illegal and arbitrary. He has prayed that he be reinstated with all back wages and benefits.

No written statement was filed by management.

The workman filed his affidavit which is uncontroverted. He filed and proved the original passbook of his saving Bank Account from 24.12.2007 to 20.07.2016, photocopy payment vouchers, bonus sheet which have been marked Ex. W/1 to Ex. W/4, by way of secondary evidence under permission from this Tribunal after a requisition to management to file originals of the documents was served under order of this Tribunal but Bank did not file these documents.

I have heard argument of learned Counsel for workman Shri Arun Patel and have gone through the records.

The reference itself is the issue for determination.

Section 25-B and 25-F of the Industrial Disputes Act 1947 (in short 'Act') are being reproduced as follows

:-

***"25B. Definition of continuous service.—For the purposes of this Chapter,—***

***(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;***

***(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—***

***(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—***

***(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and***

***(ii) two hundred and forty days, in any other case;***

***(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—***

***(i) ninety-five days, in the case of a workman employed below ground in a mine; and***

***(ii) one hundred and twenty days, in any other case.***

***Explanation.—For the purposes of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which—***

***(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the industrial establishment;***

***(ii) he has been on leave with full wages, earned in the previous years;***

***(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and***

***(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.***

**25F. Conditions precedent to retrenchment of workmen.**—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; 1 \* \* \* \*

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette."

The workman has corroborated his case in his affidavit which is uncontroverted and is supported by his passbook in which his salary for the period in question has been credited. It is further corroborated by bonus statement, hence, he is held to have successfully proved his continuous engagement with the management Bank for a period of 240 days and more in every year, including the year preceding the date of his termination. His statement that he was not paid any notice pay or compensation, his disengagement is held against 25-G of the Act.

Since, the workman was a daily wager, not appointed following recruitment procedure against a sanctioned vacancy, his reinstatement will not serve the ends of justice. Keeping all the facts and circumstances of the case in hand, a lump sum amount of Rs. 1,00,000/- (One Lac) in lieu of all his claims will meet the ends of justice, which he is held entitled to receive from Bank within 30 days from the date of publication of Award in official Gazette, failing which interest @ of 8% per annum from the date of Award, till payment.

The reference is answered accordingly.

DATE: 14/05/2024

P. K. SRIVASTAVA, Presiding Officer

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

नई दिल्ली, 12 जून, 2024

**का.आ. 1143.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, पटना के पंचाट (03 C of 2011) प्रकाशित करती है।

[सं. एल-12012/88/2010- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 12th June, 2024

**S.O. 1143.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 03 C of 2011) of the *Indus.Tribunal-cum-Labour Court Patna* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12012/88/2010- IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

Before The Presiding Officer,  
Industrial Tribunal, Patna.

**Reference Case No.:- 03 (C) of 2011**

Between the management of the Zonal Manager, Central Bank of India, Pawapuri Vihar Bhavan, Bhagwanpur Chowk, Muzaffarpur And their workman Sri Phool Babu Singh represented through the General Secretary, Bihar State Central Bank Employee's Union, Central Office, 2<sup>nd</sup> Floor, B Block, Mourya Lok Complex, Patna, Bihar.

For the management:- Sri Siddharth Harsh, Advocate.

For the workman:- Sri Rajesh Sahay, Advocate.

Present:-

**Manoj Shankar**  
**Presiding Officer,**  
**Industrial Tribunal, Patna.**

**AWARD****Patna, dt- 3<sup>rd</sup> May, 2024.**

By the adjudication order no.- L-12012/88/2010-IR(B-II) New Delhi, dated- 09.02.2011 the Govt. of India Ministry of Labour New Delhi has referred under clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Dispute Act, 1947, ( hereinafter to be referred to as “ the Act”) the following dispute between the management of Zonal Manager, Central Bank of India, Pawapuri Vihar Bhavan, Bhagwanpur Chowk, Muzaffarpur And their workman Sri Phool Babu Singh represented through the General Secretary, Bihar State Central Bank Employee’s Union, Central Office, 2<sup>nd</sup> Floor, B Block, Mourya Lok Complex, Patna, Bihar for adjudication to this tribunal.

**SCHEDULE**

“Whether the action of the management of Central Bank of India, Zonal Office, Muzaffarpur over alleged illegal retrenchment of Shri Phool Babu Singh from service w.e.f Sep. 2008 as he worked continuously for more than 13 years w.e.f 1994. If it is unfair labour practice what relief the workman is entitled to?”

2. As per the written submission ( W.S ) of the workman Phool Babu Singh. The case of the complainant is that Phool Babu Singh had been working continuously for more than thirteen ( 13 ) years from the year 1994. Phool Babu Singh vide his letter dt-12.05.2008 represented before the Labour Commissioner Central stating therein that he had been working for the last 13 years in the management bank but his service was discontinued, he lodged a complaint against action of the management for not absorbing as permanent sub-staff to higher authority of the bank. Letter on his dispute was raised before the ALC (C) Patna disclosing he has worked for last 13 years and he prayed for regularisation of his service in the bank as a subordinate staff. Since he was not a permanent employee so his name was not appearing in the muster-roll. It is further asserted that his payment were made on day to day basis through payment vouchers and thereafter was no discontinuation of his service in the said branch except Sunday and holiday. It is further asserted that many time, Phool Babu Singh was forced by the management to receive payment of his wage in some fake names but it was always in his handwriting signing over the vouchers. This act of the management is not only illegal but a fraudulent one. It is further asserted that Garkha Branch vide letter dt- 13.10.2001 accepted his working for 129 days in the year 2001 and it is also mentioned Phool Babu Singh is still working. It is further asserted that there are various branches where there is no sub-staff was posted and the bank is in the dire need to recruit the sub-staff class IV in order to post one in every branch. Thus the work of Phool Babu Singh is entitled to be regularized in the bank service and the management is totally involved in unfair labour practice by discontinuing his service arbitrarily.

3. Even after notice issued to the management bank, the management bank did not turned up before this tribunal then tribunal has no option then to proceed ex-parte hearing vide order dt-21.03.2012. Thereafter workman side examined altogether three witnesses including workman, who are namely W.W-1 Harbansh Singh, W.W-2 Motilal Mahato and W.W-3 Phool Babu Singh himself. It also appears from the record that the workman side filed a petition before this tribunal on 28.05.2014 with a prayer to direct the management bank to produce vouchers accordingly the notice was sent to the bank vide memo no.-149 dt-30.06.2014 but management side did not produced any documents as asked by the workman side. Ultimately the evidence of the workman side got to be closed vide order dt-12.10.2015 and the case has fixed for the argument but workman was never vigilant in his own case and did not complete his argument rather he became absent from 19.03.2018 on wards. In the mean time management bank filed vakalatnama in favour of Sri Rakesh Ranjan, Advocate on 19.09.2018. Records show that parties became absent and in the mean time corona broke out and so no proceeding of the case could be taken up in the absence of both the sides. Record shows that on 16.12.2021 both the parties appeared. Bank management filed fresh vakalatnama in favour of Mr Sidharth Harsh Advocate and workman also deputed Mr. Rajesh Sahay, Advocate from his side on dt- 24.02.2022. Record shows that management side appeared and filed a petition for recalling the ex-parte order on 07.03.2022. After hearing of both the sides the prayer of recalling ex-parte proceeding of management is allowed with cost of Rs. 10,000/- ( Rs. Ten Thousand ) vide order dt- 16.03.2022. Subsequently management bank filed written statement on 07.04.2022 and also filed a petition on 28.04.2022 for giving opportunity for the cross-examination of already examined witnesses from the workman side that was also allowed with cost.

4. As per the written statement filed on behalf of the management bank on 07.04.2022 that the claim as filed by the complainant Phool Babu Singh for his regularization is not maintainable. He has never worked continuously for 13 years as claims rather he was casual labour and he was engaged by the Garkha Branch of Central Bank of India on daily wages. As per record the workman has worked for only 93 days in the year 2000 and for only 78 days in the year 2001. It is further asserted that the workman Phool Babu Singh is not only person who was engaged in the Garkha Branch on daily wages rather there were other persons too who were engaged on daily wages but the workman is claiming illegally showing branch for the vouchers prepared in the name of some other persons. It is further asserted that workman has to prove he was continuously work for 13 years in Garkha Branch. It is further asserted that there is no rule and provision for regularization of such casual labourers in the Central Bank of India and even there is no provision of any absorption of

casual labourer in Central Bank of India. It is further asserted that the workman did not work for continuous 240 days in the preceding year of his alleged termination year-2008. As the matter of fact the workman was never terminated by the bank as there was no such occasion because of reasons that the workman had never been staff of the Central Bank of India and he was never engaged against the sanctioned vacant post. It is further asserted that workman was paid for his service rendered for to the Garkha Branch as a labourer through vouchers. The vouchers in the name of other has been paid to the name lenders who were casual labour on daily wages at the given time and this itself proves the workman never working continuously. Thus on the facts and circumstances set-forth above the claim of the workman devoid of merit and he is not entitled for any relief.

5. Having considering the rival submissions of workman as well as of the management side, the following issue are recasted for the adjudication;

- (i) “Whether the claim of the workman Phool Babu Singh was working continuously more than 13 years from September-1994 to September-2008 is established”.
- (ii) “ Whether the action of the management of Central Bank of India, Zonal Office, Muzaffarpur over alleged illegal retrenchment of Shri Phool Babu Singh from service w.e.f Sep. 2008 as he worked continuously for more than 13 years w.e.f 1994. If it is unfair labour practice what relief the workman is entitled to?”

6. In order to establish the claim of the workman, the representative of the workman examined altogether three witness, who are namely Harbansh Singh as W.W-1, Motilal Mahto as W.W-2 and Phool Bahu Singh as W.W-3.

7. It is worth mentioning here that W.W-1 Harbansh Singh was produced by the workman side at the time of ex-parte proceeding and when the management side appeared and prayed to recall the ex-parte order and to direct the workman side to produce witnesses of workman, the workman side only produced W.W-2 Motilal Mahto and W.W-3 the workman for cross-examination he could not produced w.W-1 Harbansh Singh for cross-examination due to his death i.e evident from the order sheet dt- 28.04.2022.

Besides oral evidence workman side got some documents marked as Extd.;

- (i) Ext.-W Information given by the management bank to the quarry of workman Phool Babu Singh vide letters dt- 20.09.2012 and 31.11.2012.
- (ii) Ext.-W/1 Payment voucher of dt- 10.06.2005 amounting of Rs. 50/-.
- (iii) Ext.-W/2 Copy of the loan recovery register through which letters served to different customers i.e from page-04 to 22.
- (iv) Ext.-W/3 Payment voucher of dt- 12.07.2004 in favour of Phool Babu Singh.
- (v) Ext.-W/4 Payment voucher of dt- 30.05.2006 showing Misc. expenditure given to Phool Babu Singh.
- (vi) Ext.-W/5 Copy of service of the notice to customer from 2001 to 2003 served by Phool Babu Singh.
- (vii) Ext.-W/6 Copy of the payment voucher of 2005 to 2006 i.e from page 01 to 56 of supplementary documents.
- (viii) Ext.-W/7 Photo copy of payment vouchers for the year 2006 to page 57 to 187.
- (ix) Ext.-W/8 Letters of dt- 31.11.2012 and 20.08.2014 given by the bank to the Phool Babu Singh under quarry of Right to Information Act.
- (x) Ext.-W/9 Petition of dt- 17.08.2012 and 22.07.2014 given by the Phool Babu Singh to information officer of Central Bank of India, Regional Office.

8. On the other hand management side examined just one witness Sushil Kumar Yadav. Beside oral evidence management also filed some documents and get it marked Extd as;

- (i) Ext.-M/1 Copy of the salary sheet of all the employee of Garkha Branch of Central Bank of India from the August-2007 to December-2007.
- (ii) Ext.-M/2 Hand written of salary scroll of Garkha Branch from period the January 2007 to July 2007.

9. Now this tribunal securitizes the evidence of workman first W.W-1 Harbansh Singh who deposed on 11.11.2013. Who stated before this tribunal, that he was Arm Guard in the Garkha Branch of the Central Bank of India from 1996 to 2005 and during his tenure Phool Babu Singh was doing duties of a casual peon and he got payment @ Rs. 60/- per day. This tribunal finds that this witness was examined at the time of ex-parte proceeding and when the management side appeared and on the prayer of the bank ex-parte proceeding was recalled and also workman was direct to produce witness but

Harbansh Singh could not be appeared for cross-examination due to his death as per petition filed by the workman side on 28.04.2022.

10. W.W-2 Motilal Mahto who is the employee of Durga Service Station who deposed before this tribunal that there is one account of Durga Service Station in the Garkha Branch of Central Bank of India and he used to visit to Garkha Branch from his firm for his work and when ever he came to the Garkha Branch he found Phool Babu Singh was working as a peon in the said branch till the year 2006.

In cross-examination this witness categorically stated in para-5 that he is working at Durga Service Station as a Nozalman and there is manager also who maintain the account of petrol pump and some time he sends other staff like me for the draft in the said bank. In para-9 of the cross-examination this witness categorically stated that Phool Babu Singh filed this case because he was retrenched from the Central Bank of India and he further denied that bank took the service of Phool Babu Singh as per requirement. In para-11 of the cross-examination this witness categorically stated that petrol pump manager also sent him to the Garkha Branch bank for making drafts. In para-13 this witness stated that he does not remember how many class IV and officers were posted in Garkha Branch. This witness further admitted in para-14 of the cross-examination, besides Phool Babu Singh one Ram Babu, Balram Manjhi and one Mr. Choudhary were also posted in the said branch. In para-15 of the cross-examination this witness categorically stated that he does not know R.P.Roy and C. Roy were class IV employee in the Garkha Branch. This witness further denied that he deposed here at the instruction of Phool Babu Singh.

10. W.W-3 Phool Babu Singh who stated before this tribunal that he discharged duties as a casual daily wager in Garkha Branch of Central Bank of India from 1994 to September 2006. Initially he received payment of his wages @ Rs. 20/- per day later on it was enhanced to Rs. 30/- and finally he received payment of wages from the bank @ Rs. 60/- day. He further stated that he always received his payment through vouchers and he put his signature on the back of the vouchers. This witness further stated that some time voucher were prepared in the name of other like Shankar Sah, Vijay Sah, Dinesh Singh, Sonu Kumar and Arbind Kumar as per instruction of manager, and he was forced to put the signature of these persons on the vouchers for receiving the payment. He also stated that manager told him it is done because if you work more than 240 days in his own name you can claim for the regularization of service. This witness further stated that Harbansh Singh the staff of bank and Motilal Mahto customer have apprised about my continuous working in the said branch. This witness further proved some documents i.e The information supplied by the bank on his quarry under Right to Information Act of dt- 20.09.2012 and 31.11.2012 marked as Ext.-W. Payment voucher of dt- 10.06.2005 received by Phool Babu Singh amounting Rs. 50/- as Ext.-W/1, Acknowledgement of notice of the customer served by Phool Babu Singh from the period from 12.07.2004 to 30.05.2006 ( page-4 to 22 ) marked as Ext. W/2. This witness further proved another payment voucher of dt- 12.07.2004 received by him as W/3 and payment voucher of dt- 30.05.2006 marked as Ext.-W/4. This witness further proved the acknowledgement of the customer of the notice served by him from the period of 2001 to 2003 ( page 25 to 65 ) marked as Ext.- W/5. This witness further proved the copy of the payment voucher of the year 2005 ( page 01 to 56 ) of supplementary documents marked as Ext.-W/6 and further proved copy of the payment voucher of the year 2006 ( page 57 to 187 ) marked as Ext.- W/7. This witness further proved the information supplied by the management bank of dt- 20.03.2014 and 31.11.2012 to Phool Babu Singh under the Right to Information Act, marked as Ext.- W/8. This witness further proved the petition given by him to the information officer of Central Bank of India under the RTI Act of dt- 17.08.2012 and 22.07.2014 marked as Ext.-W/9.

In cross-examination this witness categorically admitted in para-6 he never filed any petition in the bank for doing the work of casual worker. In para-7 this witness admits that bank employee R.B. Roy, P.K. Choudhary, C. Rai and B. Manjhi are very much acquainted with him. All the four above were class IV employee of the bank. In para-11 of the cross-examination this witness categorically denied that bank took his service of an on duty of class IV staff and he further denied that there is no rule in the Central Bank of India to making a casual daily worker in the permanent category.

11. On the other hand management examined one witness namely Sushil Kumar Yadavas M.W-1 who deposed before this tribunal on 01.02.2023. He filed his affidavited evidence stating therein that he is the Branch Manager of Garkha Branch of Central Bank of India at present. He came to know the present case from the documents available in his bank. This witness further stated that the complainant has brought this dispute for regularization of his service on the basis of working from period 1994 to 2007 as a labourer. This witness further stated that prior to 2006 to 2007 there was no vacancy of class IV employee in the Garkha Branch because two peons and one cleaning staff were posted in the said branch this is evident from the salary register and it is proved as Ext.-M/1. This witness further stated that on the basis of documents he found complainant was working as a casual labour in the branch and he never worked continuously on each working day in a calendar year. This witness further stated that there is no rule in Central Bank of India to regularise a casual labourer as a permanent employee. This witness further stated that in his Central Bank of India, payment of wages is always given to the named worker. This witness proved the salary register of the period August 2007 to December 2007 of all the employee of Garkha Branch as Ext.-M/1 and further prove the salary scroll from the period of January 2007 to July 2007 as Ext.-M/2.

In cross-examination this witness categorically admits in para-11 that Phool Babu Singh never worked with him and he saw him in this tribunal only. In para-12 of the cross-examination this witness categorically stated Phool Babu Singh was never employee of the bank and he discharged a duty of a casual labourer for which he was duly paid. In



para-13 of the cross-examination this witness admits that the documents he placed before this tribunal and marked it as Exts are of regarding permanent staff of the Garkha Branch. This witness further admits that in para-16 that casual worker / daily wager gets payment through vouchers and vouchers always kept for 10 years and this witness further denied that he is not aware about fact of the case and deposed at the instance of management bank.

12. It is argued by the learned counsel for the workman is that workman Phool Babu Singh discharged his duties as a sub-staff in the Garkha Branch of Central Bank of India from 1994 to 2007 continuously. It is further argued that workman, through the payment vouchers, used to received his payment from the branch. It is further argued that initially management side did not produce the payment vouchers but when workman asked the payment vouchers under RTI management produced payment vouchers of the year 2005 and 2006 i.e marked Ext.-W/6 & W/7 respectively that is strong documentary evidence of Phool Babu Singh was in continuance of service from 2005 to 2006. It is further argued that workman has discharged his duties for more than 240 days in continuance preceding his termination and thus the management has violated the principle of section 25(B) by ignoring to him not to regularised his service and also committed a kind of unfair labour practice by taking the service of workman for more than 13 years and thereafter retrenched him from the service that also covered u/s- 2(oo) of the I.D.Act. Hence action of the management by retrenching the Phool Babu Singh from his service is not legal and not justified and this is the clear cut unfair labour practice on the part of the management bank.

13. On the other hand it is argued by the representative of the management side. The claim of the workman Phool Babu Singh is not maintainable because he was never in continuance of service as a sub-staff rather Phool Babu Singh was engaged by the Garkha Branch as per requirement and for which he was duly paid. It is further argued that Phool Babu Singh claimed he was discharging the duties of sub-staff but no details of his working is given either in his statement of claim or in his evidence before this tribunal rather he claimed in his evidence he discharged the duties as a daily wager and the document as marked by the workman side shows that whenever he gave his service to the bank as a daily wager he was paid on that very day that is indicative of this facts he was never in continuance of service as a sub-staff. It is further argued that Phool Babu Singh himself deposed before this tribunal he has worked till 2006 in the Garkha Branch. However, he raised the dispute for the working from 1994 to September 2008 for which the terms of reference is sent for adjudication here. It is further argued that workman did not produce any documentary evidence of his payment from Garkha Branch for the period of 1994 to 2000. Moreover, workman has been completely failed to establish, he has worked for more than 240 days in continuance preceding his alleged termination September 2008. It is further argued that Garkha Branch of the Central Bank of India was well equipped with the class IV employees there was no vacant post in the said branch so there is no question of taking the services of Phool Babu Singh regularly as a sub-staff rather bank took his services as an when required for which he was duly paid hence the action of the management bank was neither illegal nor unjustified.

14. Considering the all the facts and materials available on the record as placed by the both the parties and further considering the submissions as advanced on behalf of the both the sides, this tribunal finds that the claim of the workman Phool Babu Singh is the discharged his duties continuously for more than 13 years in the Garkha Branch of management bank from 1994 to September 2008 and he was not regularised by the management bank after prayer made before the authority of the bank. In the context Phool Babu Singh himself deposed before this tribunal he was working as a casual daily wager in the Garkha Branch of Central Bank of India from 1994 to September 2006 and for which he was paid @ Rs. 20/- per day in the initial year later on he was enhanced Rs. 30/- per day and lastly Rs.60/- per day that shows that workman worked at Garkha Branch till 2006 only not till September 2008 as per the terms of reference moreover, workman did not produce any documentary evidence regarding his working from 1994 to 2000. Whatever the document placed by the workman that shows that the payment voucher dt- 10.06.2005 Ext.-W/1 is amounting to Rs. 50/- paid to Phool Banu Singh and Ext.-W/3 payment voucher of dt- 12.07.2004. Ext.-W/4 a payment voucher of dt-30.05.2006 showing Misc. expenditure given to Phool Babu Singh. Ext.-W/6 and W/7 payment vouchers of the year 2005 – 2006 that contains 187 vouchers in total i.e paid to the Phool Babu Singh on the day he has given any work to the bank these payment vouchers show that Phool Babu Singh was not in continuance of his services more than 240 days either in year 2005 or 2006 rather whenever he gave his duty as a daily wager during the 2005-2006 he was paid accordingly by the bank. This tribunal further finds that some documents also filed by the workman i.e not marked exhibited but the document of 13.10.2001 i.e issued by the Branch Manger, Garkha Branch to the Regional Officer regarding casual labourer in which it is reported by the bank Phool Babu Singh worked as a daily wager in the year 2000 -129 days and from August 2000 to July 2001 198 days those documents not marked Extd. by the workman side but it establish workman was not in continuance of service through of the year either in year 2000 – 2001. This tribunal further finds that workman Phool Babu Singh filed details of the customers to whom he served the notice during the period of 19.01.2001 to 06.08.2003 i.e marked Ext.-W/5 but this document also does not show he had served notice to the customers daily given by the bank rather it shows that whenever he was given this duty to serve the notice that details is mentioned. This tribunal further finds that workman claim that he has discharged the duty in continuance for more than 240 days in the preceding year of the alleged termination September 2008 but no cogent and authentic evidence is produced by the workman himself either in his oral evidence or by documentary evidence rather there is difference period of about his work in his statement of claim and in his evidence before this tribunal as in his evidence, Phool Babu Singh claim before this tribunal he worked as a daily wager in Garkha Branch from 1994 to September 2006 and however, in his statement of claim he disclosed the work till 2008. No document is placed by the workman of the year 2007 and 2008. So workman has been



totally failed to establish he was discharging continuance service for more than 240 days preceding his alleged termination as per the terms of reference. This tribunal further finds and hold that claim for regularization for any workman in any industry like bank. One who has to discharge continuous duties for more than 240 days in a calendar year and then it is said he has discharged regular duty as per Section 25(B) of the I.D. Act but here in the instant case, the workman Phool Babu Singh failed to establish he was discharging his duties continuous for more than 240 days in a calendar year preceding his alleged termination September 2008 as per terms of reference. This tribunal further finds that four class IV employees were posted in Garkha Branch during the tenure of the Phool Babu Singh i.e himself admitted by the Phool Babu Singh in para-7 of the cross-examination. This admission of the Phool Babu Singh clearly shows that there was no need of class IV staff in the said branch and this is also reported by the management witness before this tribunal. This tribunal further finds that management witness claim that Phool Babu Singh was simply casual daily wagger and bank took his service as and when required for which he was duly paid and this is also evident from the payment voucher as marked by the workman side. This tribunal further finds that two other witness namely Harbansh Singh W.W-1 the Arm Guard and Motilal Mahto W.W-2 who are the customer also supported this facts Phool Babu Singh was working as a casual labourer in the Garkha Branch this is also not denied by the management bank but as per the schedule of terms of reference workman Phool Babu Singh has been completely failed to establish his claim about his continuous working for more than 240 days in a calendar year preceding his alleged termination September 2008 either by oral or documentary evidence. So this tribunal finds and hold that management bank has committed no violation of Industrial Dispute Act and did not commit any unfair labour practice rather whatever duties as a daily wagger Phool Babu Singh discharged his duties in the Garkha Branch he was duly paid because there was permanent class IV employees posted in the Garkha Branch and there was no need of class IV staff but on the exigency other Misc. work Garkha Branch took the service of Phool Babu Singh intermittently and on from 1994 to 2006 as per his evidence also can't ruled out.

Accordingly on the basis of the material available on record as discussed above this tribunal finds and hold that workman Phool Babu Singh is not entitled for reinstatement and regularization in the service of the management bank as per his claim. But taking into consideration his engagement though intermittently for a long time in the Garkha Branch of management bank, workman Phool Babu Singh is entitled for a lum-sum amount of Rs. 2,00,000/- ( Rs. Two Lakhs only ) as a relief from the management bank. Accordingly management bank is directed to make payment of Rs. 2,00,000/- ( Rs. Two Lakhs only ) to the workman Phool Babu Singh within two month from date of publication / Gazette of the award. This award is effected after date of publication in gazette.

This is my award accordingly.

MANOJ SHANKAR, Presiding Officer,

नई दिल्ली, 12 जून, 2024

**का.आ. 1144.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (31/2007) प्रकाशित करती है।

[सं. एल - 12011/164/2006- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 12th June, 2024

**S.O. 1144.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.31/2007) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Allhabad Bank and their workmen.

[No. L-12011/164/2006- IR(B-II)]

SALONI, Dy. Director

**ANNEXURE**  
**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT**  
**HYDERABAD**

Present: **Sri IRFAN QAMAR**  
Presiding Officer

Dated the 9<sup>th</sup> day of May, 2024

**INDUSTRIAL DISPUTE No. 31/2007**

Between:

The President,  
Allahabad Bank Employees' Union,  
Shalimar Apartments, Yousufguda Road,  
Hyderabad – 500 038.

..... Petitioner

AND

The Dy. General Manager,  
Allahabad Bank,  
Zonal Office, No.3-6-465, 1<sup>st</sup> and 2<sup>nd</sup> floor,  
Main Road, Himayath Nagar,  
Hyderabad – 500 029.

.... Respondent

Appearances:

For the Petitioner : Sri Y. Ranjeeth Reddy, Advocate

For the Respondent: Sri K. Laxminarayana, Advocate

**A W A R D**

The Government of India, Ministry of Labour by its order No. L- 12011/164/2006-IR(B.II) dated 7.6.2007 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Allahabad Bank and their workman. The reference is,

**SCHEDULE**

“Whether the action of the management of Allahabad Bank in awarding punishment of withdrawal of special allowance to Sh. B. Ramesh, Special Assistant is proper and justified? If not, to what relief the workman concerned is entitled?”

The reference is numbered in this Tribunal as I.D. No.31/2007 and notices were issued to the parties concerned.

**2. The averments made in the claim statement are as follows:**

It is submitted that the employee, Sri Beedu Ramesh, the workman joined the Respondent Bank on 19.07.1976 as a Clerk Typist. It is submitted that in July, 1980 he was transferred from Kakinada Branch to Secunderabad Branch of the Respondent Bank. Later, workman became eligible for promotion and posted as a Special Assistant at Vijayawada branch of the Respondent Bank from 11.01.1988. The Special Assistant post carried special allowance with it which he was in receipt since 1988. While so, Sri Beedu Ramesh was transferred to Secunderabad branch of the Respondent Bank on 23.07.1990. He is presently working at Maruthinagar Branch, Hyderabad of the Respondent Bank. The Petitioner Union submits that on 03.07.1999 Sri Beedu Ramesh availed a loan of Rs.16,000/- against pledge of 3 (three) National Savings Certificates issued by the Post Master, Secunderabad Head Post Office, the particulars of which are as follows:

S.No.	Number of the Certificate	Date of Issue	Amount
1	16DD285218	23.03.1996	Rs. 5,000/-
2	09EE355454	16.01.1997	Rs.10,000/-
3	15DD853463	14.03.1997	Rs. 5,000/-

Prior to this, on 02.07.1997, the employee had applied and availed a loan against the above-mentioned NSCs except the NSC No. 15DD853463. While granting the loan the Respondent Bank ensured that the employee complied with

the rules and procedures laid down in this regard. It is submitted that the Respondent Bank granted a loan of Rs 16000/- to Sri Beedu Ramesh on 03.07.1999 against the above-mentioned NSCs after fulfilling the formalities connected therewith. A letter of undertaking / agreement for repayment of loan, promissory note, letter to the Post Office assigning the NSCs in favour of the Respondent Bank, including discharge on the reverse of the NSC No. 15DD853463 offered as security. It should be noted that the first two NSCs were having the discharge certificate while Sri Beedu Ramesh was granted loan earlier on 02.07.1997. It is further submitted that from the record of the Respondent Bank it is evident that on 03.07.1999 itself i.e., the day of sanction of loan to Sri Beedu Ramesh, the Bank addressed a letter to the Post Master, Secunderabad Head Post Office requesting him to record the Bank's lien of the NSCs in their records and return the NSCs to them thereafter. This letter of the Respondent Bank constituted documentary evidence at the departmental enquiry held against Sri Beedu Ramesh. Though this is within the knowledge of the Disciplinary Authority and the Enquiry Officer, they have conveniently omitted to deal with it to arrive at the truth. It is submitted that at the enquiry the Presenting Officer produced Sri B.N.Mohanty, the then Chief Manager of Secunderabad Branch as his witness, MW1. His role before the enquiry was only for introducing and identifying all the prosecution's documents. The documents that were placed before the enquiry were not the originals. They were all Photostat copies. Even the Photostat copies were not certified under Banker's Book Evidence Act. The testimony of witness, MW1, was not based on his personal knowledge but from the records. But this witness in his official report / complaint addressed to Mahankali Police Station stated that the NSCs were not assigned in favour of the Bank at the time of grant of loan. This statement is contrary to the contents of one of the documents furnished to the Police along with the complaint. Further, it is submitted that Sri R.N.Mohanty, MW1 was examined as PW1 in the criminal case filed by the Respondent Bank against the employee Sri Beedu Ramesh in CC no 1605/2004. What was deposed by PW1 (MW1) was to the effect that during internal inspection of the Bank in the year 2000 the said NSCs pledged by the accused (Beedu Ramesh) were found missing. He further deposed that "as the branch was shifted to new premises they thought that the said NSCs were misplaced during transit." It is submitted that the Respondent Bank instead of making a thorough probe into as to how the NSCs pledged and taken to the Post Office for marking a lien on them on 03.07.1999 have not been brought back and kept with other connected documents of the loan. However, the Respondent Bank has categorically stated in their letter dated 09.06.2000 to Sri Beedu Ramesh that the NSCs pledged to them were lost in transit while forwarding them to the Post Office. It is further submitted that the Respondent Bank filed a complaint with Mahankali Police Station, Secunderabad on 25.10.2002 about the loss of the NSC Certificates which were under their custody before shifting the branch from 115, Park Lane, S D Road, Secunderabad in the year 1999. It is evident that the Bank went on giving different versions about the alleged loss of the NSCs. It is further submitted that the employee, Sri Beedu Ramesh obliged the Respondent Bank by providing them with Xerox copies of the original NSCs as per Ex.M14 dated 10.06.2000. This letter Ex.M14 gives the impression that the employee had asked the Bank to apply for duplicates of the originals duly assigned in favour of the Bank. But the Respondent Bank made it appear that they had written to the Post Office because the investor, Sri Beedu Ramesh wanted them to apply for duplicate NSCs as the originals were lost. Further, it is submitted that the show-cause notice served on the employee, on 24.05.2003 did not carry the above details. The Disciplinary Authority has chosen to mention in the charge sheet dated 09.02.2004 that the NSCs against which loan was granted "was not traceable and not assigned to Bank". The charge sheet goes to state further that two NSCs were encashed and discharged by the employee. It is submitted that at the instance of the Respondent Bank, the Chief Manager of Secunderabad branch has gone to Mahan Kali Police Station on 31.12.2003 to lodge a complaint. The opening sentence of the letter says, "This is to report a case of cheating and misappropriation perpetrated in our Branch purported by our employees. We furnish necessary documents and details of the case." Based on such a report and the documents sent therewith, the Police Sub Inspector issued FIR and conducted investigation. It is on record that the FIR was read over to the complainant who admitted it to be correctly recorded. But the FIR copy was not made available. Sri Beedu Ramesh was the accused in the CC no 1605/2004 filed by the State under S406 and 420 IPC. The Respondent Bank cooperated with the state in prosecuting Sri Beedu Ramesh in the criminal proceedings. It is submitted that the rules of natural justice as required were not followed at the enquiry held against the employee. The Enquiry Officer permitted the Presenting Officer to mark the letters as management exhibits without producing the authors thereof. The letter marked as Exhibit M-15 was the one secured by the Bank from the Secunderabad Head Post Office. Likewise the letter marked as Exhibit M-18 is the one obtained from Sri.N.Prabhakar Reddy, Daftary of the Respondent Bank about the encashment of two NSCs. The Defence was denied the opportunity to cross-examine the Authors of Management Exhibits, M15 & M18. But the EO despite objection by the Defence made use of the documents extensively as evidenced in his report. While these are some of the shortcomings in the conduct of the enquiry, the Enquiry Officer has chosen to give his conclusions / findings based on his understanding and surmises of the Exhibits M14, M15, M18 treating them as evidence. Further, it is submitted that the Enquiry Officer has aligned himself with the allegations leveled against Sri Beedu Ramesh in the charge sheet by making use of the contents of the above mentioned exhibits which were not proved by the Authors. The Petitioner Union states that the following findings of the Enquiry officer is sufficient to hold that the findings are perverse.

“On the reverse side of the NSCs the dates 29.04.2002 and 28.01.2003 are written. The putting of the date on the NSCs before enclosing them is a clear indication that they were with the CE unauthorisedly and were encashed by him...”

This is further corroborated by the letter of Sri.Prabhakar Reddy: Daftary who advised that the CE handed over the NSCs to him duly discharging them on 29.04.2002"

Enquiry report was not furnished to the workman Sri Beedu Ramesh, for his study and submissions. The Disciplinary Authority chose to propose the punishment accepting with the findings of the EO by issuing second show cause notice on 07.10.2005. This illegal action of the Disciplinary Authority was agitated successfully before the High Court of Andhra Pradesh in WP no.22446/2005. The Charge sheet alleges, "Moreover, you have neither paid a single monthly installment as per terms of sanction which was accepted by you..." It is submitted that contrary views were taken by the Enquiry Officer in his findings and the Disciplinary Authority in his Second Show Cause Notice, on the question of responsibility for repayment. While the Enquiry Officer states "... It is said that the CE has given a mandate for recovery of loan from his salary but no such mandate was brought on records." The Enquiry Officer further observed it is not the responsibility of the branch to recover, it is the responsibility of the CE to repay the loan." The Disciplinary Authority held that the employee had given a mandate for recovering the installments from your monthly salary." It is evident that on the basis of such perverse appreciation the employee was found guilty and punished. It is submitted that the submissions made by Sri Beedu Ramesh against the Enquiry Officer's findings appears to have had no impact on the closed mind of the Disciplinary Authority who maintained that "the enquiry was conducted in accordance with principles of natural justice and the Enquiry Officer has rightly appreciated the evidence introduced in the enquiry. I concur with the findings of the Enquiry Officer and accept the same in Toto." Thereafter on 07.01.2006 the Disciplinary Authority imposed the punishment on Sri Beedu Ramesh, after the personal hearing held on 06.01.2006. It is further submitted that the appeal preferred to the Appellate Authority on 21.02.2006 by Sri Beedu Ramesh was disposed off after the expiry of the mandatory period prescribed in the Settlement. Hence, prayed to set aside the punishment imposed as illegal and unjustified directing the Respondent Bank to restore the Special Allowance withdrawn effective from 07.01.2006 and render justice.

**3. Respondent filed counter denying the averments of the Petitioner as under:**

It is submitted that the Workman, while filing the claim statement, did not file any records or documents in support of his claim, as required under Order VII Rule 14 of CPC and therefore, the claim should be dismissed on this ground alone. The Workman has not come to this Forum with clean hands. He has not divulged all the facts of the matter. This Petition therefore is malafide, baseless and devoid of merits. It is submitted that Workman indulged in criminal misconduct by misusing his employment in the Bank and caused financial losses to the Bank. Apart from filing and FIR, a charge sheet was issued to the Workman for violating conduct rules of the Bank. An enquiry was ordered departmentally and in the inquiry the Workman was held guilty of the misconduct. The enquiry was conducted in accordance with the principles of natural justice and the Workman participated in the inquiry along with his defense representative. After agreeing with the findings of the inquiry officer, the competent authority imposed the penalty by taking a lenient view of the misconduct. Therefore, the Workman's contention that the punishment was unfair and unjust calls for rejection. Therefore, prayed to dismiss the claim of the Workman.

**4. On the basis of rival contentions and pleadings of both the parties, following issues emerge for determination in this case:-**

- I Whether the action of the Respondent Management of M/s. Andhra Bank vide order dated 7.1.2006 of awarding the punishment of withdrawal of special allowance to workman Sri Beedu Ramesh, Special Assistant is proper and justified?
- II. To what relief the Workman is entitled?

**5. In the present matter Departmental enquiry conducted by Respondent against the workman has been held not valid vide order dated 31.1.2014 of the Tribunal. Therefore, in view of the law laid down by the Hon'ble Apex Court, Respondent was accorded the opportunity to adduce evidence in support of the charge levelled against the workman and workman was provided opportunity to produce evidence in rebuttal.**

**6. Respondent Management has examined MW1 and MW2 and has also exhibited the Photostat copies of documents Ex.M1 to Ex.M21. Document Ex.M1 is the charge sheet, Ex.M2 is the corrigendum dated 4.3.2004 to the charge sheet Ex.M3 is the letter dated 6.11.2004 addressed to the Enquiry Officer by the Disciplinary Authority for adjournment of enquiry, Ex.M4 is the letter dated 7.6.2005 to the Petitioner informing him about enquiry proceeding, Ex.M5 is the list of documents and witnesses submitted to the Enquiry Officer, Ex.M6 is the certificate relating to tenure of Petitioner at Secunderabad branch, Ex.M7 is the loan application dated 3.7.1999 submitted by Petitioner, Ex.M8 is the letter regarding sanction of loan to Petitioner dated 3.7.1999, Ex.M9 is the letter dated 3.7.1999 of WW1 regarding his acknowledgement to the sanction letter duly agreeing all terms and conditions, Ex.M10 is the a) letter from WW1 waiving presentment of pronote, b) Demand promissory note executed by WW1 in respect of the loan of Rs.16000/-**

sanctioned to him, c) receipt executed by WW1 confirming the receipt of loan amount of Rs.16000/-, Ex.M11 is the loan agreement dt.3.7.1999, Ex.M12 is the office copy of the letter dated 3.7.1999 addressed by the branch to HPO: Secunderabad, Ex.M13 is the letter dated 9.6.2000 to WW1 informing loss of NSCs, Ex.M14 is the letter dated 10.6.2000 of WW1 to the bank in response to the bank's letter, requesting the bank to arrange for duplicate NSCs, Ex.M15 is the letter dated 4.3.2003 of Post Office to the Bank informing about the NSCs etc., Ex.M16 is the statement of loan account of WW1 showing "no payments" during 3.7.1999 to 31.1.2004, Ex.M17 is the letter dated 23.5.2003 of WW1 to the Bank informing that Maturity amounts of his three NSCs were not credited to his account, Ex.M18 is the letter of Mr. N. Prabhakar Reddy to the Bank informing about three NSCs, Ex.M19 is the NSC No.285218, Ex.M20 is the Photostat copy of NSC No.355454, Ex.M21 is the written brief dated 30.6.2005 submitted by MW1 to the Enquiry Officer.

#### Findings:-

7. Point No.I: Respondent counsel contended that the workman Sri Beedu Ramesh was charge sheeted for committing misconduct of encashing NSCs pledged by him to the bank in the matter of loan taken by him. Therefore, an enquiry was conducted against him following the principles of natural justice and workman was found guilty of committing gross misconduct of doing act prejudicial to the interest of Bank involving and likely to involve bank in serious loss under Clause 5(j) of M.O.S. dated 10.4.2002. It would be pertinent to mention here and that the Departmental Enquiry conducted against workman has been held not valid vide order dated 31.1.2014.

The contents of the charges levelled against the workman vide Ex.M1 has been enumerated in Ex.M1, which are extracted as below:-

*That while you were posted and functioning as Special Assistant at our Secunderabad branch from 23.07.1990 to 31.07.1999. You availed a loan of Rs.16,000/- against security of your National Savings Certificates aggregating to Rs.20,000/- on 03.07.1999 from our Secunderabad branch through your application dated 03.07.1999. The details of NSCs lodged by as security are as under:*

S.No.	Certificate	Registration No.	Amount	Date of Issue
1.	16DD 285218	35287	5000.00	23.03.1996
2.	09EE 355454	41027	10000.00	16.01.1997
3.	15DD 853463	43295	5000.00	14.03.1907

*During the year 1999 you were transferred to M:utinagar Branch as Special Assistant w.e.f. 02.08.1999.*

*It was very much in your knowledge during the year June, 2000 itself that the above NSCs against which you raised a loan of Rs.16.000 - were not traceable and not assigned to Bank.*

*Subsequently, it was advised by the Head Post Office, Secunderabad that out of above three NSCs, the under mentioned two NSCs were encashed discharged by the investor i.e. yourself.*

S.No.	Certificate	Registration No.	Amount	Date of Issue	Date of encashment
1.	16DD 285218	35287	5000.00	23.03.1996	30.04.2002
2.	09EE 355454	41027	10000.00	16.01.1997	28.01.2003

*Thus, you unauthorisedly discharged/ encashed the above two NSCs knowing fully well that you have availed loan of Rs. 16,000/- against the said original NSCs. thereby jeopardizing the Banks interest in this regard. Moreover, you have neither paid single monthly installment as per terms of sanction which were accepted by you nor did you repay the loan a amount even after discharging/encashing of NSCs upon their maturity. The balance in your NSC loan account is Rs.23,863.00 as on date.*

*You are, therefore, charged for committing Gross Misconduct of "doing acts prejudicial to the interest of the Bank involving or likely to involve the Bank in serious loss" under clause 5(j) of MOS dated 10.4.2002."*

To prove the charge levelled against the workman, Respondent has examined in evidence MW1, and this witness states in his chief affidavit that the workman was charged for the misconduct of encashing two NSCs, out of three offered by him as security to the bank for availing loan i.e., NSC No.16DD285218 for Rs.5000/- and NSC No.09EE355454 for Rs.10000/-. Further, MW1 stated that workman did not pay even single installment towards repayment of the loan as undertaken by him. MW1 has also proved the documents

produced in evidence against the workman pertaining to charge levelled against him. MW1 in his sworn testimony has exhibited documents, which are as follows:-Ex.M1 charge sheet, Ex.M2 corrigendum dated 4.3.2004 to the charge sheet Ex.M3 letter dated 6.11.2004 addressed to the Enquiry Officer by the Disciplinary Authority for adjournment of enquiry, Ex.M4 letter dated 7.6.2005 addressed to the Petitioner informing him about enquiry proceeding, Ex.M5 is the list of documents and witnesses submitted to the Enquiry Officer, Ex.M6 is the certificate relating to tenure of Petitioner at Secunderabad branch, Ex.M7 is the loan application dated 3.7.1999 submitted by Petitioner, Ex.M8 is the letter regarding sanction of loan to Petitioner dated 3.7.1999, Ex.M9 is the letter dated 3.7.1999 of WW1 regarding his acknowledgement to the sanction letter duly agreeing all terms and conditions. Document Ex.M10 contains (a) letter from WW1 waiving presentment of pronote, (b) Demand promissory note executed by WW1 in respect of the loan of Rs.16000/- sanctioned to him, (c) receipt executed by WW1 confirming the receipt of loan amount of Rs.16000/-. Further, Ex.M11 is the loan agreement dt.3.7.1999, Ex.M12 is the office copy of the letter dated 3.7.1999 addressed by the branch to HPO: Secunderabad, Ex.M13 is the letter dated 9.6.2000 addressed to WW1 informing him about loss of NSCs, Ex.M14 is the letter dated 10.6.2000 of workman to the bank in response to the bank's letter, requesting the bank to arrange for duplicate NSCs, Ex.M15 is the letter dated 4.3.2003 of Post Office to the Bank informing about the NSCs encashment etc., Ex.M16 is the statement of loan account of workman showing "no payments" during 3.7.1999 to 31.1.2004. Ex.M17 is the letter dated 23.5.2003 of workman addressed to the Bank informing that Maturity amounts of his three NSCs were not credited to his account, Ex.M18 is the letter of Mr. N. Prabhakar Reddy to the Bank informing about three NSCs, Ex.M19 is the NSC No.285218, Ex.M20 is the Photostat copy of NSC No.355454, Ex.M21 is the written brief dated 30.6.2005 submitted by MW1 to the Enquiry Officer.

8. Witness MW1 was cross examined by the Petitioner counsel wherein he states that, "*an application requesting to avail a loan against NSCs, preferably in the name of the applicant is submitted to the bank after scrutiny of the application and the eligibility of the applicant, the NSCs are required to be sent to the post office for creating bank's charge on the said NSCs. However, in case of its own trusted employees the condition of creating charge on the NSCs is not insisted upon. Looking to the urgency of the applicant, employee loan is given without creating the charge on the NSCs. In case, the charge is already created on the NSCs signature of the owner is not necessary in the reverse side of the NSCs.*" Further, witness states that, "*Loan was sanctioned on 3<sup>rd</sup> July, 1999 against the application on the same date.*" Witness further states that, "*The Manager of the Branch is the custodian of the NSCs in case of availing loan.*"

Further, MW1 stated that as per documents produced in the enquiry Sri Prabhakar Reddy, Daftry got encashed NSCs along with authorization letter of Mr. Beedu Ramesh and handed over the entire money to Mr. Beedu Ramesh. The denomination of the NSCs are RS.5,000/-, 1,000/- and 500/- as per Ex.M18. Further, witness states that, he has not collected the authorization letter of Mr. Beedu Ramesh which has been handed over to Daftry Sri Prabhakar Reddy. Further, MW1 states that from the available documents he is unable to say whether Mr. Prabhakar Reddy was on duty on the date of encashment of NSCs or not. The bank has taken effort to obtain the duplicates of NSCs. MW1 states that NSC in respect of Rs.5000/-, Rs.1000/- and Rs.500/- are encashed on 30.4.2002 as per Ex.M18. Further, MW1 admitted that there is no acknowledgement in the bank record to say whether NSCs were handed over to the employee.

9. Thus, from the aforesaid statement of MW1 it is established that on the application of the workman, bank has sanctioned the loan of Rs.16000/- to him and workman has pledged the NSCs No.295218, 355454 and 853413 to bank in the guarantee of loan taken by him.

10. Further, Witness MW2 Sri N. Prabhakar Reddy has filed his affidavit of chief statement wherein he has stated that he joined the bank in 1985 as a peon at Secunderabad branch and worked there upto 1999. Mr. Beedu Ramesh was also working at the said branch during his tenure and Mr. Ramesh was General Secretary of Allahabad Bank Employees Union and was known to him and he was also member of the Employees Union and there were frequent interactions between them besides having worked as colleagues at Secunderabad branch. Further, MW2 states, "Mr. Beedu Ramesh gave me 3 NSCs with the denominations of Rs.5000/-, 1000/- and 500/- along with an authorization letter addressed to the Post Office authorizing me to collect the proceeds of the said NSCs. Mr. Beedu Ramesh certified my signature on the said authorization letter and handed over to me the NSCs on 29.4.2002. I collected the amounts from the Post Office, Secunderabad on 30.4.2002 and paid the amount to Mr. Beedu Ramesh. Later on I came to know that Mr. Beedu Ramesh had already taken a loan from the bank against NSC for Rs.5000/- and therefore, in that context, I gave a letter to the bank." The statement of MW2 goes to show that Mr. Beedu Ramesh gave him three NSCs of denomination, Rs.5000/-, 1000/- and 500/- along with authorization letter, authorizing him to collect the proceeds of said NSCs. MW2 has stated that, Mr. Beedu Ramesh has certified his signature on the said authorization letter and handed over to him on 29.4.2002. Further MW2 testifies that he collected the amount from the Post office on 30.4.2002 and gave the amount of encashed NSCs to Mr. Beedu Ramesh. Thus, from the evidence of MW2, Ex.M18, M19/1 and M19/2 have been proved. The perusal of the document Ex.M18 would reveal that MW2 had written a letter to Chief Manager, Allahabad Bank, Regional Office, Hyderabad and contents of this letter are being reproduced below:-



1. On 29/04/2002 Sri B.Ramesh gave me three H.S.Cs Rs.5000/- (the said NSC), Rs.1000/- & Rs.500- duly discharged by the holder Sri B.Ramesh along with the authorization letter addressed to the Postal Department asking me to collect the proceeds on his behalf after due authorization.
2. I have submitted all the N.S.Cs in the Post Office on 30/04/2002 along with authorization letter in which he has certified my signature.
3. After collecting the proceeds from Post Office, I have handed over the entire money to Sri B.Ramesh."

Perusal of Ex.M18 and M19 would reveal that the NSCs pledged by the workman to the Bank have been encashed by the workman through MW2 on 30.4.2002 by giving the authorization letter to MW2. Thus, from the statement of this witness the documents Ex.M18 and M19 has been proved. It is utter surprising that workman did not cross examine MW2 regarding contents of Ex.M18. Therefore, the statement of the MW2 regarding contents of Ex.M18 that on 29.4.2002 workman Mr. Beedu Ramesh gave him 3 NSCs along with the authorization letter addressed to the Postal Department asking him to collect the proceeds on his behalf after due authorization and all the NSCs were submitted by him in the Post office on 30.4.2002 along with authorization in which Mr. Beedu Ramesh, workman has certified/attested his signature, remained unrebutted. Further, MW2 was also not cross examined regarding contents of Ex.M18 that MW2 after collecting the proceeds from the Post office, he handed over the entire amount to Mr. Beedu Ramesh. Thus, the statement of MW2 in this context remained intact. Further, Ex.M15 goes to show that a letter dated 4.9.2003 was written by Post Master, D/o Posts, India to the Senior Manager, Allahabad Bank, Minerva Complex, in reference to the issuance of duplicate NSCs issued by the office in the name of Mr. Beedu Ramesh. The Post Master in the said letter has mentioned that certificate Nos.1) 16DD285218 and 2) 09EE355454 has been discharged by the investor Mr. Beedu Ramesh 1) on 30.4.2002 and 2) on 28.1.2003. It is also mentioned in that letter that certificates were not pledged to the bank as per record. Thus, document Ex.M15 also corroborate the charge against the workman that he has encashed the NSCs which have been pledged by him to the bank against the loan taken by him. It is note worthy to mention here that in case of pledge of NSC in term of loan, it becomes property of the bank until loan has been repaid by the customer. But in this case worker did not repay the loan amount to the bank

11. Respondent counsel has contended that since the workman was employee of the bank and that his loan application was accepted by the bank on the same day and the amount was released and the workman has pledged three NSCs, details of which mentioned in the charge sheet, in favour of the bank. But these NSCs were missing from the bank and the workman taking advantage of the trust of the Respondent bank Management has taken away from the bank without lawful authority and got them encashed. Further Respondent contended that since the NSCs could have been encashed by the investor only whose name bears in the NSCs and without identification of the investor, the Post Office could not have encashed the matured NSCs. The possibility of removing the alleged NSCs from the bank's custody by any other person is ruled out as nobody could have access to the record of the bank except the workman. As far as the possibility of the stealing of the said NSCs from the bank by the MW2, Daftry is also ruled out because he has examined himself on oath in this matter and stated that the workman had given the NSCs with authorization letter to him on 29.4.2002 for encashment from the post office. If MW2 would have removed these NSCs from the bank then why workman did not initiate any action against him at the union level by expelling him from the membership. Further, workman never lodged any complaint to the bank to suspend Mr. N. Prabhakar Reddy, Daftry for fraudulently encashing his pledged NSCs and to initiate disciplinary action against Mr. Prabhakar Reddy. Further, Respondent contended that workman did not file any FIR against Mr. Prabhakar Reddy for illegal encashment of his NSCs or requesting Police to investigate for the stolen NSCs. Rather the workman did not give any letter to the bank stating that he never gave any authorization letter to the Daftry to get NSCs encashed. As the Bank informed workman vide letter dated 9.6.2000 to him about missing of NSCs from bank, but the workman kept silent about it. Rather he did not moved to the Post Office immediately to report the matter to the Post Office about the theft/ loss of the pledged NSCs from the bank. The conduct of the workman in this matter remaining silent even on getting the information about missing of his pledged NSCs from bank and showing reluctant conduct for not taking any action against the defendant is quite unnatural conduct and it delineates that the workman had the knowledge of whereabouts of said NSCs. Further, on the NSCs, there is a clear note to the effect that the holder is advised to keep a note of Sl.No. and date of issue of this certificate and to notify immediately the Post Office at which the certificate is registered in the event of loss of certificate. In the present matter workman never made such attempt to intimate the concerned post office about the loss of said NSCs. This unnatural conduct of the workman goes to show that he was having the knowledge of whereabouts of the pledged NSCs and on its maturity he himself got encashed NSCs through the MW2, Daftry of the bank. Workman never stated in his evidence that he did not give any authorization letter to Mr. N.Prabhakar Reddy, Daftry for encashment of the NSCs. Even he did not dare to cross examine MW2 on document Ex.M18. Thus on the basis of careful scrutiny of the oral as well as documentary evidence on record, it is clearly established that the workman has taken away his pledged NSCs from the bank custody taking advantage of trust in him by bank since he was the employee and got encashed from the Post Office through MW2 on 30.4.2002. Further, testimony of MW2 is found reliable and trustworthy to this effect. The workman failed to shake the credibility of testimony of witness MW2. Therefore, in view of fore gone discussion I find force in the contention of the Respondent that workman has taken



away the pledged NSC from the custody of the bank unauthorizedly and got encashed on 30.4.2022 from post office.

12. On the other hand Petitioner has filed affidavit in chief as WW1 and he has reiterated the plea taken by him in his claim statement. In cross examination WW1 states that, Ex.M18 is a fake letter as no date has been mentioned nor the details of NSCs were mentioned and author of the letter was not produced for which caused prejudice to him. Further, witness admits that Mr. N. Prabhakar Reddy who was the Daftry of the Bank was the author of this letter, but he do not know whether Mr. N. Prabhakar Reddy issued the said letter WW1 state that he and Mr. N. Prabhakar Reddy worked together at Sarojani Devi Road branch, Minerva Complex. Further, witness admits that, he has borrowed a loan of Rs.16000/- from the bank pledging three NSCs amounting to Rs.5000/-, Rs.5000/- and Rs.5000/-. Post Office is very close to the branch. Further he admits that two of the NSCs have been encashed by somebody as he understood. WW1 states that, as per Ex.M19/1 NSC for Rs.5000/- maturing on 23.3.2002 was encashed on 30.4.2002 and an amount of Rs.10075/- was received by the person who encashed it. Further WW1 states that, the signature of Mr. N. Prabhakar Reddy is appearing on the back side of the above NSC for having received the amount. WW1 states that, NSC for Rs.10000/- maturing on 16.1.2003 was encashed on 28.1.2003 and the person who encashed it received an amount of Rs.20,150/-.

13. Thus, from the above statement of WW1 it is established and proved that the NSCs were pledged by the workman in security of loan taken by him from the bank and the same has been encashed on 30.4.2002 from the Post Office. WW1 has admitted in his cross examination that, "I have not intimated the postal authorities about the missing of the three NSCs as a caution given to the investors in the NSCs." But the witness adds that, when the NSCs had been pledged, it were the documents of the bank for which reason I had not intimated the postal authorities. WW1 has admitted that on 3.7.1999 I had availed the loan and on the same day he had given the loan application. He states that agreement on the same date it is not possible to sanction the loan. It is the option of the Manager of the Bank. For staff members generally, the loan is sanctioned and released on the same date even before the registration of the NSCs with the postal authorities. Perhaps for the reason that the bank interest in the three NSCs was not got registered with the postal authorities, their fraudulent payment could have happened. Further, WW1 adds that, he do not know whether the bank's interest against the NSCs was got registered in the post office." Further, witness states, "It is not correct to say that NSC certificates were given to me for getting the bank's interest noted in the Post office. The witness adds, since he is not the subordinate staff of the branch, it was not done by me. WW1 states that he do not remember if N. Prabhakar Reddy, has given a letter Ex.M18 to the bank during the course of enquiry." Further, witness WW1 states that, "I did not talk to N. Prabhakar Reddy, about the letter Ex.M18. I did not talk to him, on this letter even after the letter was handed over to me during enquiry." Witness admits that, he did not file any criminal complaint against N. Prabhakar Reddy for having encashed those NSCs which belong to the bank which had been pledged by me. He never told the bank for taking any action against N. Prabhakar Reddy, since it is the duty of the bank to take action being the custodian of the document." Further, witness states, "I admit that the bank had a written letter to the postal authorities as well as to the police the three NSCs pledged by me were missing in transit when they were sent to the post office." Further, witness also states, "It is true that I have cross examined Management witness through his defence counsel by putting 132 questions over 4 days. I can not say now, whether I have cross examined the Management witness as regards Ex.M18."

14. Thus, from the above statement of the witness WW1, it reflects that the conduct of the workman of not initiating any action against erring staff even after being intimated about the missing of NSCs by the bank was quite unnatural. As a man of ordinary prudence natural conduct of the workman would be in such circumstances that immediately he might have rushed to the Post Office to give notice to the Post Master about missing NSCs and direct to stop any encashment of these NSCs by any other unauthorized persons. But his conduct reflects that he did not make any such attempt to intimate about loss of NSCs to Post office. Such unnatural conduct of workman would indicate only one irresistible conclusion that the workman had knowledge of the whereabouts of these NSCs and on maturity he got the NSCs encashed through witness MW2, MR. N. Prabhakar Reddy who happens to be posted with him as Daftry in the bank.

15. Thus, the charge levelled against the workman for committing Gross Misconduct of "doing acts prejudicial to the interest of the Bank involving or likely to involve the Bank in serious loss" under clause 5(j) of MOS dated 10.4.2002, stands proved against him on the basis of oral and documentary evidence produced by the Respondent on record.

16. Workman has taken the plea that Enquiry Officer has found him guilty of the charge on the basis of inadmissible evidence. In this context it would be pertinent to mention here that in the enquiry proceeding the strict relief of Evidence Act is not applicable. In order to prove misconduct of an employee in the enquiry only principle of probability of preponderance is followed. Hon'ble Supreme Court of India in the case of **State of Rajasthan Vs. Heem Singh, Civil Appeal No.3340/2020, dated 29.10.2001** Hon'ble Apex Court have held:-

*"To determine whether the finding in a disciplinary Enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the*

*charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary Enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."*

**Further, in case of State of Haryana Vs. Rattan Singh, 1977 SCC 491, the Hon'ble Apex Court have held:-**

*"4. It is well settled that in a domestic Enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility." Further, it is held, "The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record."*

17. Perusal of the record goes to reveal that it is not the case of no evidence. There is ample evidence on record in support of charge levelled against workman and Enquiry Officer has rightly found the workman guilty on the basis of appreciation of evidence available on record. Thus, I don't find any force in this plea taken by workman.

18. Further, Appellant has taken the plea that Disciplinary Authority did not pass any speaking order but merely agreed with Enquiry Officer and imposed punishment of withdrawal of special Allowance to him on the basis of preview finding of Enquiry Officer.. it is also submitted that Appellate Authority also disposed of the appeal without considering the submissions made by him. As regard, question of interference by Tribunal in the finding of the Enquiry Officer, in Hon'ble Supreme Court of India has laid down the principle in the case of **State of U.P. v. Sheo Shanker Lal Srivastava and Others [(2006) 3 SCC 276]**, it was opined that the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent stating :-

*"It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience."*

**In the case of Maharashtra State Road Transport Corporation Vs. Dilip Uttam Jayabhai, the 2022 LLR page 126, wherein the Hon'ble Apex Court have held:**

*"once the enquiry finding is held to be fair and proper, industrial Tribunal or Labour Court lacks jurisdiction to interfere with the quantum of punishment unless the same is shockingly disproportionate to the gravity of conduct."*

19. As regard plea of the workman that the Respondent Management has inflicted the severe punishment of withdrawing Special Allowance w.e.f. 7.1.2006, granted to him i.e., which is disproportionate to the charge levelled against him. Perused the record. The charge of gross misconduct has been held proved against the workman. Disciplinary Authority on careful scrutiny of enquiry report has concurred with the finding of Enquiry Officer and taking a lenient view in the facts and circumstances of case, has imposed punishment of withdrawal of Special Allowance to the workman. Thus, it can not be said that said punishment imposed upon him is disproportionate in any manner. Further, workman had admitted that he did not pay any installment of the loan repayment on due time. Thus, due to this conduct of the workman, bank also suffered the loss.

20. Therefore, on the basis of foregone discussion and law laid down by Hon'ble Apex Court in the facts and circumstances of the case, I am of the considered view that the punishment of withdrawal of special allowance to the workman has been imposed for the misconduct committed by workman and Disciplinary Authority has taken lenient view against the workman while imposing the said punishment. Thus, I find no force in the argument of the workman. Therefore, the action of Respondent in imposing the punishment of withdrawal of Special Allowance is held justified.

Thus, Point No.I is decided accordingly.

21. **Point No.II:** In view of the finding given in Point No. I the Petitioner is not entitled to get any relief and this petition is found to be baseless, hence, liable to be dismissed.

Therefore, Point No.II is decided accordingly.

#### AWARD

In view of the fore gone discussion and finding arrived at Points No.I & II, the action of the Respondent Management of M/s. Andhra Bank in awarding punishment of withdrawal of special allowance to workman

Sri Beedu Ramesh, Special Assistant is held proper and justified. The workman is not entitled to any relief as prayed for. Therefore, the claim of the workman is dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 9<sup>th</sup> day of May, 2024.

IRFAN QAMAR, Presiding Officer

#### Appendix of evidence

Witnesses examined for the  
Petitioner

Witnesses examined for the  
Respondent

WW1: Sri Beedu Ramesh

MW1: Sri Manohar Jamandas Gaba

MW2: Sri N. Prabhakar Reddy

#### Documents marked for the Petitioner

- Ex.W1: Photostat copy of charge sheet dt. 9.2.2004**  
**Ex.W2: Photostat copy of letter from Enquiry Officer dt.27.10.2004**  
**Ex.W3: Photostat copy of representation to the Disciplinary Authority dt.6.11.2004**  
 Ex.W4: Photostat copy of lr. to D.A. to E.O dt.6.11.2004  
 Ex.W5: Photostat copy of proceedings of domestic enquiry dt.29.6.2005  
 Ex.W6: Photostat copy of enquiry report dt.19.7.2005  
 Ex.W8: Photostat copy of order in WP No.22446/2005  
 Ex.W9: Photostat copy of submissions to Disciplinary Authority dt. 25.11.2005  
 Ex.W10 : Photostat copy of fresh show cause notice dt.22.12.2005  
 Ex.W11: Photostat copy of personal hearing dt.6.1.2006  
 Ex.W12: Photostat copy of final order dt. 7.1.2006  
 Ex.W13: Photostat copy of appeal dated 22.2.2006  
 Ex.W14: Photostat copy of lr. reg. non disposal of appeal dt.26.4.2006  
 Ex.W15: Photostat copy of lr. reg. disposal of appeal  
 Ex.W16: Photostat copy of representation to ALC(C) by Petitioner dt.4.5.2006  
 Ex.W17: Photostat copy of counter to the representation dt.20.7.2006  
 Ex.W18: Photostat copy of rejoinder dt. 22.8.2006  
 Ex.W19: Photostat copy of comments filed by bank dt. 5.10.2006  
 Ex.W20: Photostat copy of minutes of conciliation dt.20.11.2006  
 Ex.W21: Photostat copy of failure report dt.30.11.2006  
 Ex.W22: Photostat copy of reference by Government of India dt.7.6.2007  
 Ex.W23: Photostat copy of notice from CGIT cum Labour Court dt.9.7.2007  
 Ex.W24: Photostat copy of NSCs No.16DD285218  
 Ex.W25: Photostat copy of NSCs No.09EE355454  
 Ex.W26: Photostat copy of application for loan dt.3.7.1999  
 Ex.W27: Photostat copy of banks letter to Post office dt.3.7.1999  
 Ex.W28: Photostat copy of Petitioner letter dt.10.6.2000  
 Ex.W29: Photostat copy of Petitioner letter dt.23.5.2003  
 Ex.W30: Photostat copy of reply to show cause notice dt.3.6.2003

Ex.W31:	Photostat copy of Police complaint dt. 25.10.2002
Ex.W32:	Photostat copy of lr. from Police dt.18.2.2003
Ex.W33:	Photostat copy of Sastry Award
Ex.W34:	Photostat copy of Memorandum of Settlement dt.10.4.2002
Ex.W35:	Photostat copy of copies statements
Ex.W36:	Photostat copy of loan ledger A/c upto Sept'99
Ex.W37:	Photostat copy of defence Exhibits-12 dt.29.6.2005
Ex.W38:	Photostat copy of judgement copy 14.9.2007

#### Documents marked for the Respondent

<b>Ex.M1:</b>	<b>Photostat copy of charge sheet dt. 9.2.2004</b>
<b>Ex.M2:</b>	<b>Photostat copy of corrigendum dt. 4.3.2004 to the charge sheet</b>
Ex.M3:	Photostat copy of lr. dt. 6.11.2004 addressed to the Enquiry Officer by the Disciplinary Authority for adjournment of enquiry
<b>Ex.M4:</b>	<b>Photostat copy of lr.dt. 7.6.2005 to the Petitioner informing him about enquiry proceeding</b>
Ex.M5:	Photostat copy of list of documents and witnesses submitted to the Enquiry Officer
<b>Ex.M6:</b>	<b>Photostat copy of certificate relating to tenure of Petitioner at Secunderabad branch</b>
Ex.M7 :	Photostat copy of loan application dt.3.7.1999 submitted by Petitioner
Ex.M8:	Photostat copy of lr. reg. sanction of loan to Petitioner dt. 3.7.1999
Ex.M9:	Photostat copy of lr. dt. 3.7.1999 of WW1 reg. his acknowledgement to the sanction letter duly agreeing all terms and conditions
Ex.M10:	Photostat copy of a) lr. from WW1 waiving presentment of pronote b) Demand promissory note executed by WW1 in r/o the loan of Rs.16000/- sanctioned to him c) receipt executed by WW1 confirming the receipt of loan amount of Rs.16000/-
Ex.M11:	Photostat copy of loan agreement dt.3.7.1999
Ex.M12:	Office copy of the lr. Dt.3.7.1999 addressed by the branch to HPO: Secunderabad
Ex.M13:	Photostat copy of lr. dt. 9.6.2000 to WW1 informing loss of NSCs
Ex.M14:	Photostat copy of lr. dt. 10.6.2000 of WW1 to the bank in response to the bank's letter, requesting the bank to arrange for duplicate NSCs
Ex.M15:	Photostat copy of lr. dated 4.3.2003 of Post Office to the Bank informing about the NSCs etc..
Ex.M16:	Photostat copy of statement of loan account of WW1 showing "no payments" during 3.7.1999 to 31.1.2004
Ex.M17	Photostat copy of lr dt. 23.5.2003 of WW1 to the Bank informing that Maturity amounts of his 3 NSCs were not credited to his account
Ex.M18:	Photostat copy of lr. of Mr. N. Prabhakar Reddy to the Bank informing about 3 NSCs
Ex.M19:	Photostat copy of NSC No.285218
Ex.M20:	Photostat copy of NSC No.355454
Ex.M21:	Photostat copy of written brief dt. 30.6.2005 submitted by MW1 to the Enquiry Officer

Presiding Officer

नई दिल्ली, 12 जून, 2024

**का.आ. 1145.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (16/2012) प्रकाशित करती है।

[स. एल-39025/01/2024- आई आर (बी-II)-20]

सलोनी, उप निदेशक

New Delhi, the 12th June, 2024

**S.O. 1145.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.16/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Indian Overseas Bank and their workmen.

[No. L-39025/01/2024- IR(B-II)-20]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 26<sup>th</sup> day of April, 2024

**INDUSTRIAL DISPUTE LC No.16/2012**

Between:

Sri R.Narsimhulu,

S/o R. Chandraiah,

R/o H.No.1-2-606/12,

Banda Maisamma Nagar,

Near Indira Park, Hyderabad.

.....Petitioner

AND

1. The General Manager,  
Indian Overseas Bank, Regional Office,  
Surabhi Complex, Bank Street,  
Hyderabad.

2. The Branch Manager,  
Indian Overseas Bank,  
Uppal Branch, Uppal,  
Hyderabad.

... Respondents

Appearances:

For the Petitioner: Sri M.V.L.Narsaiah, Advocate

For the Respondent: Sri E. Madan Mohan Rao, Advocate

**A W A R D**

Sri R. Narasimhulu, who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents Indian Overseas Bank against their oral termination order in the month of November, 2010 and seeking for reinstatement into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit.

2. On the date fixed for Petitioner's evidence, Petitioner called absent. Despite providing sufficient opportunity for cross examination of WW1, Petitioner did not adduce any evidence to substantiate his claim. In the absence of cross examination of WW1, the evidence of witness can not be read in support of claim. Since, the claim is not substantiated by evidence, therefore, a 'No claim' award is passed for want of evidence.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected and signed by me on this the 26<sup>th</sup> day of April, 2024.

IRFAN QAMAR, Presiding Officer

## Appendix of evidence

Witnesses examined for the  
Petitioner  
NIL

Witnesses examined for the  
Respondent  
NIL

## Documents marked for the Petitioner

NIL

## Documents marked for the Respondent

NIL

नई दिल्ली, 12 जून, 2024

**का.आ. 1146.**—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स एयरपोर्ट अथॉरिटी ऑफ़ इंडिया; मेसर्स मोहनस इंटरप्राइजेज; मेसर्स विशाल इंटरप्राइजेज; मेसर्स आनंद इंटरप्राइजेज के प्रबंधन के संबद्ध नियोजकों और श्री मनोज कुमार राय के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली, पंचाट (रिफरेंस न.-222/2017) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.06.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-82]

दिलीप कुमार, अपर सचिव

New Delhi, the 12th June, 2024

**S.O. 1146.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 222/2017**) of the **Central Government Industrial Tribunal cum Labour Court-1, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Airport Authority of India; M/s Mohans Enterprises; M/s Vishal Enterprises; M/s Anand Enterprises** and **Shri Manoj Kumar Rai** which was received along with soft copy of the award by the Central Government on 12.06.2024.

[No. Z-16025/04/2024-IR(M)-82]

DILIP KUMAR, Under Secy.

## ANNEXURE

## THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1

ROOM NO.207, ROUSE AVENUE COURT COMPLEX,

NEW DELHI.

## DID No.222/2017

Shri Manoj Kumar Rai S/o Sh. Babu Ram Rai,

Through Hindustan Engineering &amp; General Mazdoor Trade Union (regd.),

D-2/24, Sultanpuri, Delhi

Claimant...

Versus

1. The Director,  
M/s Airport Authority of India,  
Safdarjung Airport, Shree Arvindo Marg,  
New Delhi-110003.
2. Malikan, M/s Mohans Enterprises  
242, Pocket-D, J&K Dilshad Garden,  
New Delhi-110095.
3. Malikan, M/s Vishal Enterprises  
71, Kamla Nagar,  
New Delhi-110007.

4. Malikan, M/s Anand Enterprises  
15/32, East of Punjabi Bagh,  
New Delhi-110026.

Management...

#### AWARD

1. This is an application Under Section 2A of the I.D. Act whereby, the applicant made prayer that his termination from the service on 01.03.2017 by the management which he declared illegal and unjustified and he be reinstated with full back wages, it is the case of the applicant/workman that he has been working with the management. He has not been provided any legal facilities. When the workman went to join his job he was illegally terminated from his service on 01.03.2017 without any rhyme or reason and without conducted any domestic enquiry by the management. He has initiated the conciliation proceeding but, no result. Hence, he had filed the present claim petition.

2. Management No.2&3 is not appearing since long therefore they are proceeded ex-parte. However, the management no.1&4 has appeared and filed the written statement. Thereafter, rejoinder filed by the claimant and issues were framed. Case was listed for claimant evidence on 18.05.2018. After that, claimant evidence also not filed. Despite providing a number of opportunities, claimant have not appeared to substantiate his claim.

3. Hence, in these circumstances this tribunal has no option except to pass the no dispute award. No dispute award is passed accordingly. File is consigned to the record room. A copy of this award is hereby send to the appropriate government for notification under section 17 of the I.D. Act, 1947.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 12 जून, 2024

**का.आ. 1147.**—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दिल्ली इंटरनेशनल एयरपोर्ट प्राइवेट लिमिटेड (डायल); थिक शेक फैक्ट्री (टीटीएसएफ) के प्रबंधन के संबंध में नियोजकों और श्री पंकज के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न.-21/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.06.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-81]

दिलीप कुमार, अवर सचिव

New Delhi, the 12th June, 2024

**S.O. 1147.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 21/2020**) of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Delhi International Airport Private Limited (DIAL); Thick Shake Factory (TTSF)** and **Shri Pankaj** which was received along with soft copy of the award by the Central Government on 12.06.2024.

[No. Z-16025/04/2024-IR(M)-81]

DILIP KUMAR, Under Secy.

#### ANNEXURE

**BEFORE SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-CUM-LABOUR COURT NO-II, NEW DELHI**

**I.D. No. 21/2020**

**Sh. Pankaj, Sh. Satish Kumar,**

R/o KG-1, 1535, Vikas Puri, Delhi-110018.



## VERSUS

1. **Delhi International Airport Pvt. Ltd. (DIAL),**

IGI Airport, New Delhi-110037.

2. **The Thick Shake Factory (TTSF),**

Delhi International Airport, New Udaan Bhawan,

Opp. Terminal-III, IGI Airport, New Delhi-110037.

## AWARD

This is an application of U/S 2A of the Industrial Disputes Act (here in after referred as an Act). Claimant had stated in their claim statement that he had been working with the respondent-2 since 25.03.2019 at the post of Senior Operation Manager at a monthly salary of Rs. 59,000/- Per month. He was posted at Delhi Airport Terminal 1 by the management-2 and continued working there. He had been doing his work with diligently and never given any chance of complaint to the managements. In July 2019, the management-2 started pressuring him to resign from job. Management had stopped his salary of August 2019 when he asked he was informed that there were some minor financial issues which would be sorted out and he would be paid his salary. However, he was not paid the salary even in the next month. Even his expenses towards Travelling allowance from April 2019 to October 2019 amounting to Rs. 30,000/- were not paid to him. Vide letter dated 20.10.2019 he was terminated without any reason and without paying his salary for three months from August to October 2019. He has orally requested to them to take him on duty with his back wages and other dues. However, request was turned down. He has gone to the conciliation officer, but, no result was yielded. Hence he has filed the claim.

Both management-1 & 2 had appeared and filed the WS denying the averment made in the claim. They submit that claim of the claimant is not maintainable and is liable to be dismissed.

On 29.03.2022, issues have been framed that is given below :-

1. Whether the proceeding is maintainable.
2. Whether the claimant is a workman in terms of the provision of section 2 (s) of the I.D Act.
3. Whether the service of the claimant was illegally terminated by the management-2.
4. To what relief of the claimant is entitled to.

Claimant is asked to prove his case. However, despite providing a number of opportunities, claimant has not turned up to prove his claim. As the claimant has not turned up for proving his case, his claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

ATUL KUMAR GARG. Presiding Officer

Date: 30.04.2024

दिल्ली, 12 जून, 2024

**का.आ. 1148.**—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेलेबी एयरपोर्ट सर्विसेस इंडिया प्राइवेट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और सेलेबी एम्प्लाइज यूनियन के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली, पंचाट (रिफरेन्स न.-62/2023) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.06.2024 को प्राप्त हुआ था।

[सं. एल-11011/04/2023-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 12th June, 2024

**S.O. 1148.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 62/2023**) of the **Central Government Industrial Tribunal cum Labour Court-1, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **CELEBI Airport Services India Private Limited** and **CELEBI Employees Union** which was received along with soft copy of the award by the Central Government on 12.06.2024.

[No. L-11011/04/2023-IR(M)]

DILIP KUMAR, Under Secy.

## ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT DELHI - 1,  
NEW DELHI.

ID No. 62/2023

The General Secretary,  
CELEBI Employees Union (Regd.)  
BTR Bhawan, 13-A, Rouse Avenue,  
New Delhi-110002

Claimant...

Versus

CELEBI Airport Services India Private Limited,  
(Formerly CELEBI Ground Handling Private Limited)  
IGI Airport, New Delhi-110037

Management

## AWARD

1. In the present case, a reference was received from the appropriate Government vide letter No.L-11011/04/2023-IR(M) dated 22.02.2023 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

## SCHEDULE

*"1. Whether the action of the management of CELEBI Airport Services India Private Limited, New Delhi in not inviting and holding discussion with the Celebi Employees Union, New Delhi on the charter of demands dated 02.04.2018 (Annexed) and instead signing the settlement dated 01.04.2018 with a committee of workmen is proper, legal and justified? If not, to what reliefs are the disputant Union entitled and what directions, if any, are necessary in this regard?"*

*2. If the above issue at S.No. 1 is answered in favour of disputant union. Then whether the demands as raised in charter of demand dated 02.04.2018 (Annexed-A) are proper, legal and justified? If yes, to what relief are disputant union entitled and what directions, if any, are necessary in this regard?"*

3. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

4. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

5. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 14.05.2024

नई दिल्ली, 12 जून, 2024

का.आ. 1149.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दिल्ली इंटरनेशनल एयरपोर्ट लिमिटेड; मेसर्स सेलेबी दिल्ली कार्गो मैनेजमेंट टर्मिनल प्राइवेट लिमिटेड; मेसर्स बी. आर.

पावर कंट्रोल एंड ऑटोमेशन सर्विसेज के प्रबंधन के संबद्ध नियोजकों और एयरपोर्ट एम्प्लाइज यूनियन के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली, पंचाट (रिफरेन्स नं.-160/2017) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.06.2024 को प्राप्त हुआ था।

[सं. एल-11011/6/2017-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 12th June, 2024

**S.O. 1149.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 160/2017**) of the **Central Government Industrial Tribunal cum Labour Court-1, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Delhi International Airport Limited; M/s CELEBI Delhi Cargo Management Terminal Private Limited; M/s B.R. Power Control & Automation Services and Airport Employees Union** which was received along with soft copy of the award by the Central Government on 12.06.2024.

[No. L-11011/6/2017-IR(M)]

DILIP KUMAR, Under Secy.

#### ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1  
ROOM NO.207, ROUSE AVENUE COURT COMPLEX,  
NEW DELHI.**

**ID No.160/2017**

Airport Employees Union,

BTR Bhawan, 13A Rouse Avenue,

New Delhi- 110002

Claimant...

Versus

M/s Delhi International Airport Ltd.,

New Udaan Bhawan, IGI Airport,

New Delhi-110037

M/s Celebi Delhi Cargo Management Terminal Pvt. Ltd.,

Room No. CE-05, 1<sup>st</sup> Floor, Impart Building-II,

International Cargo Terminal, IGI Airport

New Delhi-110037

M/s B.R. Power Control & Automation Services,

Plot No. 15, Krishna Nagar, Sector-25,

Faridabad-121004

Management...

#### AWARD

1. In the present case, a reference was received from the appropriate Government vide letter No-L-11011/6/2017 (IR(M)) dated 25.05.2017 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

#### SCHEDULE

*“Whether the action of the management BR Power Control & Automation Services/DIAL/CELEBI DELHI CARGO TERMINAL in not implementing charter of demands under id act 1947 of the workmen is illegal and/or unjustified, if so, what relief the workman is entitled to and what directions are necessary in this respect?”*

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within

15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Claim statement filed, rebuttal written statement filed on behalf of the management no. 1,2&3.

3. Thereafter, issues were framed. Case was listed for claimant evidence on 26.07.2019. After that, none appeared on behalf of the claimant despite providing a number of opportunities neither filed claimant evidence or appeared to substantiate his claim.

4. Hence, in these circumstances this tribunal has no option except to pass the no dispute award. No dispute award is passed accordingly. File is consigned to the record room. A copy of this award is hereby send to the appropriate government for notification under section 17 of the I.D. Act, 1947.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 14.05.2024

नई दिल्ली, 12 जून, 2024

**का.आ. 1150.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 1 चण्डीगढ़ के पंचाट (267/2013) प्रकाशित करती है

[स. एल - 12012/06/2014- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 12th June, 2024

**S.O. 1150.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.267/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Chandigarh* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12012/06/2014- IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

**Present: Sh. Kamal Kant, Presiding Officer-cum-Link Officer, Chandigarh.**

ID No.267/2013

Registered On: 20/03/2014

Sh. Amit, S/o Sh. Tara Chand, Village and Post Kharawar(Railway Road), District Rohtak (Haryana).

.....Workman

#### Versus

1. The Manager, Punjab National Bank, Circle Office, Rohtak.

2.The Manager, C.I.S. Bureau Facility Services Pvt. Ltd. Regional Office, 7 SatyaNiketan, First Floor, Moti Bagh-2, New Delhi-110021.

#### AWARD

**Passed On: 21.05.2024**

Central Government vide Notification No. L-12012/06/2014 (IR(B-II)) dated 06.03.2014, under clause (d) of Sub-Section (1) sub-section (2) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

**“Whether the action of the management of (i) The Manager, Punjab National Bank, Circle Office, Rohtak (Haryana) and (ii) The Manager, C.I.S. Bureau Facility Services Pvt. Ltd., Regional Office, 7 Satya Niketan, First Floor, Moti Bagh-2, New Delhi 110021 in terminating the services of Shri Tara**

**Chand S/o Shri Lakhi Ram, Ex-Caretaker/ATM Security Guard w.e.f. 28.09.2012 is just and legal? What relief the workman is entitled to and from what date?"**

1. During the pendency of the proceedings before this Tribunal the case was fixed for cross-examination of management witness by workman but none is responding on behalf of workman. It is submitted by the Ld. Counsel for the management that workman is not turning up since long i.e. from 22.02.2023 and prayed for dismissal of the present claim petition.

2. Perused the file and it is found that the submissions made by the Ld. Counsel for management is true. Several opportunities have already been given to the workman for cross-examination of management witness by workman but of no use. Which denotes that the workman is not interested in adjudication of the matter on merits as such, this Tribunal is left with no choice except to pass a 'No Claim Award'. Accordingly, no claim award is passed in the present case for the non-prosecution of workman. File after completion be consigned in the record room.

3 Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, PO-cum-Link Officer

नई दिल्ली, 12 जून, 2024

**का.आ. 1151.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 1 चण्डीगढ़ के पंचाट (268/2013) प्रकाशित करती है

[सं. एल - 12012/04/2014- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 12th June, 2024

**S.O. 1151.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.268/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Chandigarh* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12012/04/2014- IR(B.II)]

SALONI, Dy. Director

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.**

**Present: Sh. Kamal Kant, Presiding Officer-cum-Link Officer, Chandigarh.**

ID No.268/2013

Registered On: 28/04/2014

Sh. Tara Chand, S/o Sh. Lakhi Ram, R/o Village and P.O. Kharawar (Railway Road), District Rohtak (Haryana).

.....Workman

**Versus**

1. The Manager, Punjab National Bank, Circle Office, Rohtak.
2. The Manager, C.I.S. Bureau Facility Services Pvt. Ltd. Regional Office, 7 Satya Niketan, First Floor, Moti Bagh-2, New Delhi-110021.

.....Management

**AWARD**

**Passed On: 21.05.2024**

Central Government vide Notification No. L-12012/04/2014 (IR(B-II)) dated 06.03.2014, under clause (d) of Sub-Section (1) sub-section (2) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

**“Whether the action of the management of (i) The Manager, Punjab National Bank, Circle Office, Rohtak (Haryana) and (ii) The Manager, C.I.S. Bureau Facility Services Pvt. Ltd., Regional Office, 7 Satya Niketan, First Floor, Moti Bagh-2, New Delhi 110021 in terminating the services of Shri Tara**

**Chand S/o Shri Lakhi Ram, Ex-Caretaker/ATM Security Guard w.e.f. 28.09.2012 is just and legal? What relief the workman is entitled to and from what date?”**

1. During the pendency of the proceedings before this Tribunal the case was fixed for cross-examination of management witness by workman but none is responding on behalf of workman. It is submitted by the Ld. Counsel for the management that workman is not turning up since long i.e. from 22.02.2023 and prayed for dismissal of the present claim petition.
2. Perused the file and it is found that the submissions made by the Ld. Counsel for management is true. Several opportunities have already been given to the workman for cross-examination of management witness by workman but of no use. Which denotes that the workman is not interested in adjudication of the matter on merits as such, this Tribunal is left with no choice except to pass a 'No Claim Award'. Accordingly, no claim award is passed in the present case for the non-prosecution of workman. File after completion be consigned in the record room.
3. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, PO-cum-Link Officer